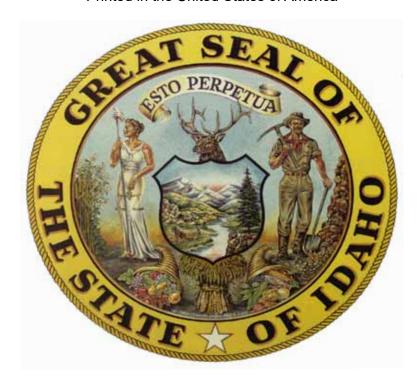
IDAHO ADMINISTRATIVE BULLETIN

January 2, 2019 - Vol. 19-1

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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual "Notice of Rulemaking - Proposed Rule" for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a "logical outgrowth" of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is "pending" legislative review for final approval. The pending rule is the agency's final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin 13-1 refers to the first Bulletin issued in calendar year 2013; Bulletin 14-1 refers to the first Bulletin issued in calendar year 2014. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 13-1 refers to January 2013; Volume No. 13-2 refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume 14-1. The December 2015 Bulletin is cited as Volume 15-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho's administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a "Notice of Intent to Promulgate - Negotiated Rulemaking" for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency's intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Rulemaking - Proposed Rule" in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of these criteria, and with the Governor's approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule. When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Rulemaking - Pending Rule." This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule.

5. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering schematic. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

1. "38." refers to the Idaho Department of Administration

"05." refers to Title 05, which is the Department of Administration's Division of Purchasing

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"

"200." refers to Major Section 200, "Content of the Invitation to Bid"

"02." refers to Subsection 200.02.

"c." refers to Subsection 200.02.c.

"ii." refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a "DOCKET NUMBER." The docket number is a series of numbers separated by a hyphen "-", (38-0501-1401). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

"DOCKET NO. 38-0501-1401"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).

"1401" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as "1402". The docket number in this scenario would be 38-0501-1402.

Within each Docket, only the affected sections of chapters are printed. (See Sections Affected Index in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2018

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
18-1	January 2018	*November 24, 2017	January 3, 2018	January 24, 2018
18-2	February 2018	January 5, 2018	February 7, 2018	February 28, 2018
18-3	March 2018	February 2, 2018	March 7, 2018	March 28, 2018
18-4	April 2018	March 2, 2018	April 4, 2018	April 25, 2018
18-5	May 2018	April 6, 2018	May 2, 2018	May 23, 2018
18-6	June 2018	May 4, 2018	June 6, 2018	June 27, 2018
18-7	July 2018	June 8, 2018	July 4, 2018	July 25, 2018
18-8	August 2018	July 6, 2018	August 1, 2018	August 22, 2018
18-9	September 2018	August 3, 2018	September 5, 2018	September 26, 2018
18-10	October 2018	**August 31, 2018	October 3, 2018	October 24, 2018
18-11	November 2018	October 5, 2018	November 7, 2018	November 28, 2018
18-12	December 2018	November 2, 2018	December 5, 2018	December 26, 2018

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2019

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
19-1	January 2019	*November 30, 2018	January 2, 2019	January 23, 2019
19-2	February 2019	January 4, 2019	February 6, 2019	February 27, 2019
19-3	March 2019	February 8, 2019	March 6, 2019	March 27, 2019
19-4	April 2019	March 8, 2019	April 3, 2019	April 24, 2019
19-5	May 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	**August 30, 2019	October 2, 2019	October 23, 2019
19-11	November 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	November 1, 2019	December 4, 2019	December 25, 2018

^{*}Last day to submit a proposed rulemaking before moratorium begins and last day to submit a pending rule to be reviewed by the legislature.

^{**}Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.

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IDAPA 02 - IDAHO SHEEP AND GOAT HEALTH BOARD

02.08.01 – SHEEP AND GOAT RULES OF THE IDAHO SHEEP AND GOAT HEALTH BOARD DOCKET NO. 02-0801-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 25, Chapter 1, Idaho Code, and Section 25-128.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule clarifies the goat assessment and payment process, and has been adopted as pending. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 7, 2018 Idaho Administrative Bulletin, Vol. 18-11, pages 23 and 24.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brandy Kay at (208) 803-5084.

Dated this 5th day of December, 2018

Brandy Kay Executive Secretary Idaho Sheep and Goat Health Board 112 E 6th Street P.O. Box 825 Emmett, ID 83617 Phone: (208) 803-5084

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.01.06 – RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE DOCKET NO. 07-0106-1801

NOTICE OF CORRECTION TO PENDING RULE

CORRECTION SUMMARY: This notice corrects an error that occurred during the publication of the proposed rulemaking under Docket No. 07-0106-1801 in the September 5, 2018 Idaho Administrative Bulletin, Volume 18-9. The error was a transcription error in Section 004, Incorporation by Reference, which was being added to the rule as one of the required informational sections, that incorrectly stated that no documents are incorporated by reference into the rule. However, Section 011 of this rule does incorporate by reference the National Electrical Code. Section 004 is now a "RESERVED" section.

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1001, 54-1005 and 54-1006, Idaho Code.

PUBLICATION OF THE PROPOSED AND PENDING RULES: The Notice of Adoption of Pending Rule was published in the November 7, 2018, Idaho Administrative Bulletin, **Vol. 18-11, page 31**.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction notice, contact Dennis Stevenson, Administrative Rules Coordinator, at (208) 332-1820.

Dated this 4th day of December, 2018.

Dennis Stevenson Administrative Rules Coordinator Office of the Administrative Rules Coordinator Department of Administration P.O. Box 83720 Boise, ID 86720-0306

08.01.04 - RESIDENCY

DOCKET NO. 08-0104-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Section 33-3717B, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The proposed amendments remove obsolete references to Eastern Idaho Technical College, simplify the definition of "support" for determining if a student is a dependent of a parent or guardian and remove an undefined reference to "hourly equivalent" as it pertains to full-time employment.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 36-38.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or **tracie.bent@osbe.idaho.gov**.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037

Phone: (208) 332-1582 Fax: (208) 334-2632

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM DOCKET NO. 08-0113-1802

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, and 33-4303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The proposed rule would make amendments to the student eligibility and application requirements to allow for a portion of the Opportunity Scholarship awards to be used for individuals who have earned 24 or more postsecondary credits. The proposed rule is being vacated to gather more feedback on the acceptance of using the scholarship to earn stackable credentials as opposed to the individual's first certificate or undergraduate degree.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent Chief Planning and Policy Officer State Board of Education 650 W. State Street P.O. Box 83720 Boise, ID 83720-0037 Phone: (208) 332-1582

Phone: (208) 332-1582 Fax: (208) 334-2632

IN COMPLIANCE WITH SECTION 67-5221, IDAHO CODE, THIS RULEMAKING IS BEING VACATED.

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1254 and 33-1258, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Professional Standards Commission (PSC) follows a strategic plan of annually reviewing 20 percent (20%) of the Idaho Standards for Initial Certification of Professional School Personnel, a document incorporated by reference, as well as the corresponding certification and endorsement language within IDAPA. The pending rule reflects a revised State Board of Education adoption date of the Idaho Standards for Initial Certification of Professional School Personnel and certification and endorsement revisions for school nurse, teacher librarian, teacher leader, gifted and talented, English, online teacher, and literacy. Other amendments include a new definition of clinical experience and supporting definitions, new endorsements for Middle School Social Studies and Middle School Science, and language regarding the use of continuing education units toward certificate renewal by pupil service staff certificate holders who also hold a professional license through the Bureau of Occupational Licenses. Technical corrections include corrections to numeric order, alphabetical order, spelling, punctuation, and/or grammar.

As a result of public comments received on the proposed rule, the term "physics" is replaced with "physical science" in Subsection 024.11, and the term "continuing education units" is replaced with "contact hours" in Subsection 060.02.d,. Additionally, corrections to punctuation were made in subsections 024.13, 024.16.b, and 024.16.b.ii.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 1, 2018, Idaho Administrative Bulletin, Vol. 18-8, pages 25-54.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lisa Colón Durham, Director of Certification and Professional Standards, at (208) 332-6886 or lcolondurham@sde.idaho.gov.

Dated this 8th Day of November, 2018.

Sherri Ybarra Superintendent of Public Instruction 650 W. State Street, 2nd Floor P.O. Box 83720 Boise ID 83720-0027

Office: (208) 332-6800 Fax: (208) 334-2228

DOCKET NO. 08-0202-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-8, August 5, 2018, pages 25 through 54.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

024. ENDORSEMENTS M - Z.

[Subsection 024.11]

11. Science – Middle Level (5-9). Twenty-four (24) semester credit hours in science content coursework including at least eight (8) credits in each of the following: biology, earth science, and physical science to include lab components. Science foundation standards must be met.

[Subsection 024.13]

- 13. Social Studies Middle Level (5-9). Twenty (20) Semester credit hours in social studies content coursework including at least five (5) credits in each of the following: history, geography, and American government/political science or economics. Social studies foundations must be met.
- 16. Teacher Leader. Teacher leaders provide technical assistance to teachers and other staff in the school district with regard to the selection and implementation of appropriate teaching materials, instructional strategies, and procedures to improve the educational outcomes for students. Candidates who hold this endorsement facilitate the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs.

[Paragraph 024.16.b.]

<u>b.</u> <u>Teacher Leader – Literacy – Eligibility for Endorsement. To be eligible for a Teacher Leader – Literacy endorsement on the Standard Instructional Certificate, a candidate must have satisfied the following requirements:</u>

(4-1-97)

[Subparagraph 024.16.b.ii.]

<u>ii.</u> Experience: Completion of a minimum of three (3) years' full-time certificated experience while under contract in an accredited school setting.

(BREAK IN CONTINUITY OF SECTIONS)

060. APPLICATION PROCEDURES / PROFESSIONAL DEVELOPMENT.

To obtain a new, renew, or reinstate an Idaho Educator Credential, the applicant must submit an application on a form supplied by the State Department of Education or the Division of Career Technical Education as applicable to the type of certificate. All applications for new, renewed, or reinstated occupational specialist certificates must be submitted to the Division of Career Technical Education. The following requirements must be met to renew or reinstate an Idaho Educator Credential. (3-29-17)

02. State Board of Education Professional Development Requirements.

[Paragraph 060.02.d.]

<u>d.</u> <u>Pupil Service Staff Certificate holders who hold a professional license through the Idaho Bureau of Occupational Licenses may use continuing education units applied toward the renewal of their professional license toward the renewal of the Pupil Service Staff Certificate. Fifteen (15) <u>contact hours</u> are equivalent to one (1) semester <u>credit.</u></u>

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1802

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201, 33-1201A, 33-1204, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The proposed rule would have created an alternate route to certification for non-traditional educators to earn an administrator certificate. The proposed rule is being vacated due to a lack of consensus between all stakeholder groups involved in the negotiated rulemaking process and concerns expressed from Idaho educators during the public comment period that the proposed route would undermine the standards for public school administrators and the need to maintain quality standards for this group of professionals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent Chief Planning and Policy Officer State Board of Education 650 W. State Street P.O. Box 83720 Boise, ID 83720-0037 Phone: (208) 332-1582

Phone: (208) 332-158. Fax: (208) 334-2632

IN COMPLIANCE WITH SECTION 67-5221, IDAHO CODE, THIS RULEMAKING IS BEING VACATED.

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201, 33-1201A, 33-1204, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Amendments will make technical corrections to IDAPA 08.02.02.042 Alternate Routes to Certification, Subsection 042.02, Alternative Authorization – Content Specialist to clarify that the required "recommendation for full certification" is not the defined term "Institutional Recommendation." The recommendation for full certification is a recommendation that should be given by the consortium (school district and Board approved educator preparation program) that the individual has completed their individualized alternative route preparation program and is recommended for full certification. The proposed amendment will change the wording to "certificate of completion" to avoid confusion. Technical corrections include adding the word "standard" to IDAPA 08.02.02.100. Official Vehicle for Approving Teacher Education Program, Subsection 100.01. Educator preparation programs must meet the Council for Accreditation of Educator Preparation (CAEP) Standards and the Board approved Idaho Standards for Initial Certification of Professional School Personnel. The word "standard" was at some point dropped from the reference to the CAEP standards and is being added back in. Additional changes will align terminology for consistency and update terms to current usage.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 52-68.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or **tracie.bent@osbe.idaho.gov**.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037

Phone: (208) 332-1582 Fax: (208) 334-2632

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201A, 33-1204A, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

House Bill 296 (2015) in addition to creating the Career Ladder, added Section 33-1201A, Idaho Code, establishing the requirement for a Professional Endorsement. The proposed rule will create a new section of Administrative Code, IDAPA 08.02.02.028 providing clarification to types of "additional evidence demonstrating effective teaching" that are authorized as evidence for the Professional Endorsement pursuant to Section 33-1201A, Idaho Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 69-70.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037 Phone: (208) 332-1582

Fax: (208) 334-2632

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1805

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1004B, 33-1201, 33-1201A, 33-1204, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The proposed rule would add existing career technical educator endorsements to administrative code consistent with other educator credential endorsements. The proposed rule is being vacated due to comments received during the public comment period that indicated more work needed to be done to better inform individuals in the field that could be impacted by the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent Chief Planning and Policy Officer State Board of Education 650 W. State Street P.O. Box 83720 Boise, ID 83720-0037 Phone: (208) 332-1582

Fax: (208) 334-2632

IN COMPLIANCE WITH SECTION 67-5221, IDAHO CODE, THIS RULEMAKING IS BEING VACATED.

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The amendments will incorporate changes required by Section 33-523, Idaho Code, exempting students who complete eight (8) or more credits in mathematics and have completed Algebra II or higher-level mathematics prior to the student's senior year from taking a mathematics class during the student's senior year. Additional amendments include:

- Updating the reference to Algebra to add integrated math to be consistent with integrated math offerings by school districts and charter schools.
- Removing restrictions on computer science courses that can be used to meet the math or science graduation requirements, to also allow for computer science courses aligned to the Idaho Computer Science Content Standards at the high school level to be used.
- Expand on the senior project to provide clarity on the intent of the senior project requirement.

Based on comments received during the public comment period, the following additional amendments have been added to the senior project requirement:

- School to work programs; and
- Clarify that the school district or charter school has full discretion of which options are available to their students to meet the senior project requirement.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 87-92.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer

Phone: (208) 332-1582 Fax: (208) 334-2632 Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037

DOCKET NO. 08-0203-1803 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-10, October 3, 2018, pages 52 through 68.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum.

(5-8-09)

- **01. Credit Requirements.** The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-12-14)
- Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning. Dual credit engineering and computer science courses aligned to the state standards for grades nine (9) through (12), including AP Computer Science, and Ddual Credit Engineering courses may also be counted as a mathematics credit if the student has completed Algebra II (or equivalent integrated mathematics) standards. Students who choose to take AP Ccomputer Science, Dual Credit Computer Science, and Ddual Ccredit Eengineering courses may not concurrently count such courses as both a mathematics and science credit.
 - i. Students must complete secondary mathematics in the following areas: (3-12-14)

[Subparagraph 105.01.d.i.(2)]

(2) Two (2) credits of Geometry, <u>Geometry level equivalent Integrated Mathematics</u>, or courses that meet the Idaho <u>High School</u> Geometry Content Standards as approved by the State Department of Education; and (3-29-10)(

[Subsection 105.04]

04. Senior Project. The senior project is a culminating project to show a student's ability to analyze,

STATE BOARD OF EDUCATION Rules Governing Thoroughness

Docket No. 08-0203-1803 Adoption of Pending Rule

synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include a written report and an oral presentation elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement.

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-118 and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Similar to academic programs, content standards exist for secondary career technical programs. These content standards are developed with secondary and postsecondary instructors and industry representatives by the Division of Career Technical Education (Division). Postsecondary instructors provide guidance into the postsecondary program alignment, and industry representatives validated the outcomes with current needs of the particular industry occupations supported by the program.

Once the career technical standards and student learning outcomes are developed and vetted through the initial development team, the learning outcomes are shared with a larger group of industry representatives. The Division asks industry representatives to rank each learning outcome as to their importance in the workplace. Each learning outcome is then scored and reflected in the program's technical skills assessment based on the level of criticality established by the representative community.

Each career technical program is evaluated regularly by the Division and held to these standards. Prior to 2016 these standards were standarded occuments updated and maintained by the Division. To be consistent with the academic content standards, during the 2016 rulemaking time period the Division started the process of bringing the career technical content standards forward for incorporation into Administrative Code. The standards being considered this year add the following subcategories into the current content standard areas:

- Agriculture and Natural Resources
 - » Ag Leadership and Applied Communication
 - » Ag Mechanics and Power Systems
 - » Ecology and Natural Resources
- Family and Consumer Sciences
 - » Education Assistant
- Skilled and Technical Sciences
 - » Automated Manufacturing
 - » Cosmetology
 - » Firefighting
 - » Precision Machining

- · Engineering and Technology
 - » Computer Support
 - » Journalism
- Health Sciences
 - » Pharmacy Technician

In addition to adding these subsections to the existing categories, the Division will be amending the current standards for Collision Repair by adding a section that outlines the standards to perform spray gun and related equipment operations. The amendment to this content standard adds performance standards that were identified in the criticality survey and the technical skills assessment for collision repair, and were not included in the original content standards. The Collision Repair content standards are a subsection of the Skilled and Technical Sciences Content Standards.

STATE BOARD OF EDUCATION Rules Governing Thoroughness

Docket No. 08-0203-1804 Adoption of Pending Rule

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 93-96.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idano 83720-0037

Phone: (208) 332-1582 Fax: (208) 334-2632

08.05.01 – RULES GOVERNING SEED AND PLANT CERTIFICATION

DOCKET NO. 08-0501-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-1504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The amendments update the current/incorporated version of the Idaho Potato Certification Standards to the standards adopted by the Idaho Crop Improvement Association on January 16, 2018. The amendment to the standard standardizes the terminology used, changing "generation" to "field year." Amending the terminology is intended as a first step in standardizing the terminology across states and thereby eliminating the need for an equivalency table to keep track of the differences. "Nuclear" would be "field year" (FY) 1. "Gen 1" would be "FY2." "Gen 2" would be "FY3" and so forth through "Gen 6," which would become "FY7."

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 97-99.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or **tracie.bent@osbe.idaho.gov**.

Dated this 30th day of November, 2018.

Tracie Bent, Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037 Phone: (208) 332-1582

Fax: (208) 334-2632

IDAPA 11 – IDAHO STATE POLICE IDAHO BRAND BOARD

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD DOCKET NO. 11-0201-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 25-1160, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 106-109.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-1160(5), Idaho Code.

The pending rule increases the cattle brand inspection fee by twenty-five cents (\$0.25), from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the minimum brand inspection fee from ten dollars (\$10) to twenty dollars (\$20). The fee increase moves the Brand Board cattle brand inspection fee closer to the maximum of one dollar twenty-five cents (\$1.25) set in Section 25-1160(1)(a), Idaho Code. For clarification purposes, the increase in cattle brand inspection fee also affects the fee schedule for the courtesy brand inspection fee, increasing it from ninety-four cents (\$0.94) to one dollar nineteen cents (\$1.19) and the Idaho livestock to pasture fee from forty-seven cents (\$0.47) to sixty cents (\$0.60). The Brand Board has not imposed a cattle brand inspection fee increase since FY2006.

Pursuant to Title 25-1160(5): "The state brand board may adopt a schedule or schedules of fees which are below the maximum fees and may adjust such schedule or schedules from time to time whenever such board finds that the cost of administering and enforcing the laws of the state of Idaho for brand inspection of livestock can be maintained with such below-maximum fees."

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

An estimated \$473,000 will be generated to the Brand Board from the Idaho livestock industry.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cody Burlile, State Brand Inspector, at (208) 884-7070.

Dated this 11th day of December, 2018.

Cody D. Burlile, State Brand Inspector Idaho State Brand Board 700 S. Stratford Drive P.O. Box 1177 Meridian, ID 83680-1177 Phone: (208) 884-7070

Phone: (208) 884-7070 Fax: (208) 884-7097

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.02 – RULES GOVERNING MANDATORY EDUCATION AND MENTORED HUNTING DOCKET NO. 13-0102-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-401 and 36-1508, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 64-66.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3771

Fax: (208) 334-4885

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO DOCKET NO. 13-0108-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 111-117.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3771

Fax: (208) 334-4885

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO DOCKET NO. 13-0108-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 118-124.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3771

Phone: (208) 334-377 Fax: (208) 334-4885

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO DOCKET NO. 13-0108-1804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 125-128.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Greg Wooten, (208) 334-3736.

Dated this 26th day of November, 2018.

Greg Wooten, Chief Bureau of Enforcement Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3736

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO DOCKET NO. 13-0108-1805

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-104, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 129-135.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3771

13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO DOCKET NO. 13-0109-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018 Idaho Administrative Bulletin, Vol. 18-7, pages 67-70.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25, Boise, ID 83707 Phone: (208) 334-3771

13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO DOCKET NO. 13-0109-1805

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-104, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 137-140.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeff Knetter, (208) 334-2920.

Dated this 26th day of November, 2018.

Jeff Knetter Upland Game/Migratory Bird Coordinator Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-2920

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104, 36-501 and 36-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, Vol. 18-9, pages 114-116.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau, (208) 334-2920.

Dated this 26th day of November, 2018.

Toby Boudreau Assistant Chief, Bureau of Wildlife Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104, and 36-502, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 141-144.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau, (208) 334-2920.

Dated this 26th day of November, 2018.

Toby Boudreau Assistant Chief, Bureau of Wildlife Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH DOCKET NO. 13-0111-1801AP NOTICE OF AMENDED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has amended by proclamation the 2018 Steelhead Fishing Season. Previously, on November 14, 2018, the agency took action to suspend steelhead fishing at the end of the day on December 7, 2018, due to a threat of litigation. After reaching a settlement the agency rescinded this suspension before it took effect. As part of this settlement, the agency implemented the following. Effective on December 7, 2018, until the time National Marine Fisheries Service authorizes incidental take of wild steelhead, the agency has closed the following areas to steelhead fishing: (1) the Main Salmon River between Warren Creek and the Copper Mine Boat Ramp, and (2) the South Fork of Clearwater River upstream of the Mount Idaho Grade Bridge. The agency also acted to continue the one steelhead daily bag limit through the end of 2018 and into the 2019 spring season.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this amended proclamation, contact Owen Moroney at (208) 334-3715.

Owen Moroney Deputy Attorney General Idaho Department of Fish and Game 600 South Walnut P.O. Box 25 Boise, ID 83707

Phone: (208) 287-2875 Fax: (208) 334-2148

E-mail: owen.moroney@idfg.idaho.gov

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH DOCKET NO. 13-0111-1901P NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation the 2019-2021 Fishing Seasons, establishing seasons and limits for fishing in Idaho.

Following adoption of the proclamation, on November 14, 2018, the agency took action to suspend steelhead fishing at the end of the day on December 7, 2018, due to a threat of litigation. After reaching a settlement the agency rescinded this suspension before it took effect. As part of this settlement, the agency implemented the following. Effective on December 7, 2018, until the time National Marine Fisheries Service authorizes incidental take of wild steelhead, the agency has closed the following areas to steelhead fishing: (1) the Main Salmon River between Warren Creek and the Copper Mine Boat Ramp, and (2) the South Fork of Clearwater River upstream of the Mount Idaho Grade Bridge. The agency also acted to continue the one steelhead daily bag limit through the end of 2018 and into the 2019 spring season.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proclamation, contact Owen Moroney at (208) 334-3715.

Owen Moroney Deputy Attorney General Idaho Department of Fish and Game 600 South Walnut P.O. Box 25 Boise, ID 83707

Phone: (208) 287-2875 Fax: (208) 334-2148

E-mail: owen.moroney@idfg.idaho.gov

13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 145-147.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cory Mosby, (208) 334-2920.

Dated this 26th day of November, 2018.

Cory Mosby
Furbearer Staff Biologist
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-2920

13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018 Idaho Administrative Bulletin, Vol. 18-7, pages 73-75.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon W. Kiefer, (208) 334-3771.

Dated this 26th day of November, 2018.

Sharon W. Kiefer, Deputy Director Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-3771

13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 148-150.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cory Mosby, (208) 334-2920.

Dated this 26th day of November, 2018.

Cory Mosby
Furbearer Staff Biologist
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-2920

13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104 and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, Vol. 18-9, pages 118-120.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau, (208) 334-2920.

Dated this 26th day of November, 2018.

Toby Boudreau Assistant Chief, Bureau of Wildlife Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-2920

13.01.18 – RULES GOVERNING EMERGENCY FEEDING OF ANTELOPE, ELK, AND DEER OF THE IDAHO FISH AND GAME COMMISSION

DOCKET NO. 13-0118-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104, 36-105 and 36-111, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, Vol. 18-9, pages 121-123.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Toby Boudreau, (208) 334-2920.

Dated this 26th day of November, 2018.

Toby Boudreau Assistant Chief, Bureau of Wildlife Idaho Department of Fish and Game 600 S. Walnut Street P.O. Box 25 Boise, ID 83707 Phone: (208) 334-2920

16.01.02 – EMERGENCY MEDICAL SERVICES (EMS) – RULE DEFINITIONS DOCKET NO. 16-0102-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1011 through 56-1023, Idaho Code, and Senate Bill 1310 (2018).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Title 56 (EMS Act) requires that the minimum staffing requirement for patient care providers in ambulances in Idaho is an Emergency Medical Technician (EMT). The EMT is the second level of licensed Emergency Medical Services (EMS) patient care provider in Idaho. The first level is the Emergency Medical Responder (EMR). Senate Bill 1310 (2018) changes this requirement from an EMT to an EMR with an Ambulance Certification. The Ambulance Certification is a new process so the current EMS Rules are silent on the requirements that agencies must meet in order to staff an ambulance with an ambulance certified EMR. This rulemaking is needed to align the chapter with Senate Bill 1310 (2018). Specifically, these rule changes add a definition of "Ambulance Certification" to this chapter. Companion rule changes are being made simultaneously under Dockets 16-0103-1801 and 16-0107-1801.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 76 through 79.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036

Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.01.03 – EMERGENCY MEDICAL SERVICES (EMS) – AGENCY LICENSING REQUIREMENTS DOCKET NO. 16-0103-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1011 through 56-1023, Idaho Code, and Senate Bill 1310 (2018).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Title 56 (EMS Act) requires that the minimum staffing requirement for patient care providers in ambulances in Idaho is an Emergency Medical Technician (EMT). The EMT is the second level of licensed Emergency Medical Services (EMS) patient care provider in Idaho. The first level is the Emergency Medical Responder (EMR). Senate Bill 1310 (2018) changes this requirement from an EMT to an EMR with an Ambulance Certification. The Ambulance Certification is a new process so the current EMS Rules are silent on the requirements that agencies must meet in order to staff an ambulance with an ambulance certified EMR. This rulemaking is needed to align the chapter with Senate Bill 1310 (2018). Specifically, these rule changes add a definition of "Ambulance Certification" to this chapter. Companion rule changes are being made simultaneously under Dockets 16-0102-1801 and 16-0107-1801.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 80 through 83.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036

Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.01.07 – EMERGENCY MEDICAL SERVICES (EMS) – PERSONNEL LICENSING REQUIREMENTS DOCKET NO. 16-0107-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1011 through 56-1023, Idaho Code, and Senate Bill 1310 (2018).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Title 56 (EMS Act) requires that the minimum staffing requirement for patient care providers in ambulances in Idaho is an Emergency Medical Technician (EMT). The EMT is the second level of licensed Emergency Medical Services (EMS) patient care provider in Idaho. The first level is the Emergency Medical Responder (EMR). Senate Bill 1310 (2018) changes this requirement from an EMT to an EMR with an Ambulance Certification. The Ambulance Certification is a new process so the current EMS Rules are silent on the requirements that agencies must meet in order to staff an ambulance with an ambulance-certified EMR. This rulemaking is needed to align the chapter with Senate Bill 1310 (2018). Specifically, these rule changes add language to this chapter that describes the process that an EMR must follow to obtain the Ambulance Certification. Companion rule changes are being made simultaneously under Dockets 16-0102-1801 and 16-0103-1801.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 84 through 86.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036

Phone: (208) 334-5500 Fax: (208) 334-6558

16.02.01 – RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL DOCKET NO. 16-0201-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1024 through 56-1030, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The incorporated document is being revised and updated to more current standards in the "Time Sensitive Emergency Standards Manual," Edition 2019-1, that will be become effective July 1, 2019, along with these rules. Additional changes are being made for clarification of the designation fee structure and for enforcement procedures for failure to make annual payments for facilities choosing to pay designation fees on a yearly basis.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 151 through 154.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Melissa Ball at (208) 334-2124.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Fax: (208) 334-6558

16.02.02 – RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1013A and 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

To best protect the public's health and safety, the EMS Physician Commission is revising its Standards Manual that is incorporated by reference in this chapter of rules. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 155 and 156.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

On March 5, 2018, the United States District Court for the District of Idaho issued a decision holding that Vital Records' practice of categorically denying applications for the amendment of gender markers on a birth certificate violated the constitutional rights of two transgender plaintiffs. F.V. v. Barron, et al., Case No. 1:17-CV-170-CWD. The court ordered that Vital Records must begin accepting applications from transgender persons no later than April 6, 2018, and that it must process those applications in a constitutionally sound manner. This rule change establishes the standards and processes for such applications.

This rule change proposes to establish a process for the amendment of a gender marker on a birth certificate. Specifically, this rule change requires a notarized affidavit from the applicant; prohibits the marking of the replacement birth certificate as amended; and designates that a previous or concurrent name change must not show revision history, or be marked as amended.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the May 2, 2018, Idaho Administrative Bulletin, Vol. 18-5, pages 60 through 64.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact James Aydelotte at (208) 334-4969.

Dated this 16th day of November, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Paiga JD 83720 0036

Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

These rule changes eliminate language that is no longer relevant. They also eliminate the list of specific circumstances for a replacement certificate and replaces language so that any circumstance resulting in a replacement certificate will result in a fee being charged. No fees are being changed in this docket.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 124 though 126.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication. The fee for changing birth certificates is currently being charged. The only costs have been personnel time to change forms, the website, etc.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact James Aydelotte, (208) 334-4969.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Fax: (208) 334-6558

16.02.11 – IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING LICENSED DAYCARE FACILITIES IN IDAHO

DOCKET NO. 16-0211-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-1118, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Idaho legislators and interested stakeholders have identified the need to clarify this rule to ensure that the immunization exemption language therein is consistent with Section 39-1118, Idaho Code, and legislative intent.

This rulemaking adds language clarifying that parents requesting an immunization exemption may do so either on the Department's standard form or in a written, signed statement indicating their choice to exempt their child from immunization requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 87 and 88.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Kathryn Turner at (208) 334-5939.

Dated this 16th day of November, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Roise JD 83720 0036

Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.02.15 – IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN DOCKET NO. 16-0215-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4801 and 39-4802, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Idaho legislators and interested stakeholders have identified the need to clarify this rule to ensure that the immunization exemption language therein is consistent with Section 39-4802, Idaho Code, and legislative intent.

This rulemaking adds language clarifying that parents requesting an immunization exemption may do so either on the Department's standard form or in a written, signed statement indicating their choice to exempt their child from immunization requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 89 and 90.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Kathryn Turner at (208) 334-5939.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Phone: (208) 334-5500 Fax: (208) 334-6558

16.02.15 – IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN DOCKET NO. 16-0215-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4801 and 39-4802, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

A second dose (booster) of the meningococcal (MenACWY) vaccination is recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) for children aged 16 years and older who received the 1st dose of vaccine as recommended at 11-12 years of age. Idaho does not currently require the booster dose for school entry. Requiring Idaho students receive a second dose of meningococcal (MenACWY) vaccine before entry into the 12th grade, or receive the vaccination before entry into 12th grade for those children who did not receive the recommended first dose, would help to prevent potential cases of meningococcal disease among young people in Idaho. A second vaccination (booster) received before the 12th grade helps to ensure immunity from meningococcal disease in young people as the immunity gained from the first dose of Meningococcal (MenACWY) vaccine has been shown to fade after five years.

This rulemaking adds a new school entry immunization requirement to require a second dose of meningococcal (MenACWY) vaccination before a student enters the 12th grade in Idaho, or the first dose if not previously vaccinated, starting with school year 2020-2021. If a student received their first dose of meningococcal (MenACWY) vaccine at 16 years of age or older, they will not be required to receive the second dose before entry into the 12th grade.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 127–132.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes travel for negotiated rulemaking, printing, and publication.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Kathryn Turner at (208) 334-5939.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036

Phone: (208) 334-5500 / Fax: (208) 334-6558

16.03.03 – RULES GOVERNING CHILD SUPPORT SERVICES

DOCKET NO. 16-0303-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 7-1206, 32-1207, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule:

The Department needs to comply with amendments to the Social Security Act that require an increase to the annual federal fee and the threshold of when this fee is imposed. The annual federal fee increases from \$25 to \$35 and amount of when a fee is imposed is being increased to \$550.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 157 and 158.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-203A, Idaho Code.

Fees will be increased for the annual child support services from a \$25 fee to \$35 fee; and the threshold of when this fee is imposed is being increased to \$550.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Non-custodial parents who pay at least \$550 in child support in a fiscal year will pay an annual fee of \$35. Based on current data, it is anticipated that approximately 35,000 child support cases will qualify for this fee increase. The total estimated increase will result in an increase of \$350,000 per each federal fiscal year. The state pays 66% of the total fees assessed to the federal Office of Child Support Enforcement for federal match, which equals \$231,000. The state retains any amount collected above the federal share, which equals up to \$119,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Robert Rinard at (208) 334-0620.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720

Boise, ID 83720-0036 Phone: (208) 334-5500 / Fax: (208) 334-6558

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2019. The pending rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also adopting this rule as a temporary rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule:

These rule changes allow eligible Critical Access Hospitals to designate additional acute care beds as swing beds to provide necessary care for individuals, without having to place them in facilities outside of their community and away from their support system. These rules would only apply to those Critical Access Hospitals, who do not have a skilled nursing facility within 35 miles of their facility, and have been approved by Medicare to offer swing-beds.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 175 through 184.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule confers a benefit as it would allow participants to stay closer to home, and remain in their communities.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The fiscal impact in SFY2020 of allowing Critical Access Hospitals who meet the special requirements to request additional swing-bed days from the Department would be a savings of \$87 per person, per day. The savings to the state general fund would be \$25 per person, per day, and the Federal savings would be \$62 per person, per day. This rule change would only allow those Critical Access Hospitals who do not have nursing facilities in their communities to provide additional hospital swing beds that provide the level of care that individuals need to receive care in their local communities.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule or temporary rule, contact William Deseron at (208) 364-1967.

Dated this 16th day of November, 2018.

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No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-10, October 3, 2018, pages 175 through 184.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Additionally, this rule has been adopted as a temporary rule and is effective January 1, 2019.

Pursuant to Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin.

405. INPATIENT HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.

Under the Medicaid provisions of the Social Security Act, in reimbursing hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of inpatient services in accordance with the procedures detailed under this Section of rule. The upper limits observed by the Department in reimbursing each individual hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. (3-30-07)

- **01. Exemption of New Hospitals.** A hospital that has operated as the type of facility for which it is certified (or the equivalent thereof) under present and previous ownership for less than three (3) full years will be paid in accordance with the Title XVIII principles of reasonable cost reimbursement, including those provisions applicable to new providers for the carryover and recovery of unreimbursed costs, in accordance with 42 CFR Section 413.64. (3-30-07)
- **02. Medicaid Inpatient Operating Cost Limits**. The following describe the determination of inpatient operating cost limits. (3-30-07)
- a. Medicaid Cost Limits for Dates of Service Prior to a Current Year. The reimbursable reasonable costs for services rendered prior to the beginning of the principal year, but included as prior period claims in a subsequent period's cost report, will be subject to the same operating cost limits as the claims under settlement.

 (3-30-07)
- **b.** Application of the Medicaid Cost Limit. In the determination of a hospital's reasonable costs for inpatient services rendered after the effective date of a principal year, a hospital inflation index, computed for each hospital's fiscal year end, will be applied to the operating costs, excluding capital costs and other allowable costs as defined for the principal year and adjusted on a per diem basis for each subsequent year under the hospital inflation index.

 (7-1-18)
- i. Each inpatient routine service cost center, as reported in the finalized principal year end Medicare cost report, will be segregated in the Medicaid cost limit calculation and assigned a share of total Medicaid inpatient ancillary costs. The prorated ancillary costs will be determined by the ratio of each Medicaid routine cost center's reported costs to total Medicaid inpatient routine service costs in the principal year. (3-30-07)
- ii. Each routine cost center's total Medicaid routine service costs plus the assigned share of Medicaid inpatient ancillary costs of the principal year will be divided by the related Medicaid patient days to identify the total costs per diem in the principal year. (3-30-07)

- (1) The related inpatient routine service cost center's per diem capital and graduate medical education costs plus the prorated share of inpatient ancillary capital costs will be subtracted from the per diem amount identified in Subsection 405.02.b.ii. of this rule to identify each inpatient routine service cost center per diem cost limit in the principal year. (3-30-07)
- (2) If a provider did not have any Medicaid inpatient utilization or render any Medicaid inpatient services in an individual inpatient routine service cost center in the fiscal year serving as the principal year, the principal year for only those routine cost centers without utilization in the provider's principal year will be appropriately calculated using the information available in the next subsequent year in which Medicaid utilization occurred.

 (3-30-07)
- iii. Each routine cost center's cost per diem for the principal year will be multiplied by the hospital inflation index for each subsequent fiscal year. (7-1-18)
- iv. The sum of the per diem cost limits for the Medicaid inpatient routine service cost centers of a hospital during the principal year, as adjusted by the hospital inflation index, will be the Medicaid cost limit for operating costs in the current year. (7-1-18)
- (1) At the date of final settlement, reimbursement of the Medicaid current year inpatient routine cost centers plus the assigned ancillary costs will be limited to the total per diem operating costs as adjusted for each subsequent fiscal year after the principal year through the current year by the hospital inflation cost index. (7-1-18)
- (2) Providers will be notified of the estimated inflation index periodically or hospital inflation index (CMS Market Basket Index) prior to final settlement only upon written request. (7-1-18)
- **O3.** Adjustments to the Medicaid Cost Limit. A hospital's request for review by the Department concerning an adjustment to or exemption from the cost limits imposed under the provisions set forth in Section 405 of this chapter of rules, must be granted under the following circumstances: (3-30-07)
- a. Adjustments. Because of Extraordinary Circumstances. Where a provider's costs exceed the Medicaid limit due to extraordinary circumstances beyond the control of the provider, the provider can request an adjustment to the cost limit to the extent the provider proves such higher costs result from the extraordinary circumstances including, but not limited to, increased costs attributable to strikes, fires, earthquake, flood, or similar, unusual occurrences with substantial cost effects. (3-30-07)
- **b.** Reimbursement to Public Hospitals. A public hospital that provides services free or at a nominal charge, which is less than, or equal to fifty percent (50%) of its total allowable costs, will be reimbursed at the same rate that would be used if the hospital's charges were equal to, or greater than, its costs. (7-1-18)
- c. Adjustment to Cost Limits. A hospital is entitled to a reasonable increase in its Medicaid cost limits if the hospital shows that its per diem costs of providing services have increased due to increases in case-mix, the adoption of new or changed services, the discontinuation of services or decrease in average length of stay for Medicaid inpatients since the principal year. Any hospital making such showing is entitled to an increase commensurate with the increase in per diem costs.

 (7-1-18)
- i. The Medicaid operating cost limit may be adjusted by multiplying cost limit by the ratio of the current year's case-mix index divided by the principal year's case-mix index. (7-1-18)
- ii. The contested case procedure set forth in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," is available to larger hospitals seeking such adjustments to their Medicaid cost limits.

 (7-1-18)
- d. Adjustment to the Proration of Ancillary Costs in the principal year. Where the provider asserts that the proration of ancillary costs does not adequately reflect the total Medicaid cost per diem calculated for the inpatient routine service cost centers in the principal year, the provider may submit a detailed analysis of ancillary services provided to each participant for each type of patient day during each participant's stay during the principal

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year. The provider will be granted this adjustment only once upon appeal for the first cost reporting year that the limits are in effect. (3-30-07)

- **04.** Payment Procedures. The following procedures are applicable to in-patient hospitals: (3-30-07)
- a. The participant's admission and length of stay is subject to prior authorization, concurrent review, continued stay review, and retrospective review by a Quality Improvement Organization (QIO) designated by the Department. QIO review will be governed by provisions of the QIO Idaho Medicaid Provider Manual as amended. If a review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. Failure to obtain a timely QIO review as required by Section 402 of this chapter of rules, and as outlined in the QIO Idaho Medicaid Provider Manual as amended, will result in the QIO conducting a late review. After a QIO review has determined that the hospital stay was medically necessary, Medicaid will assess a late review penalty to the hospital as outlined in Section 405 of this rule.
- i. All admissions are subject to QIO review to determine if continued stay in inpatient status is medically necessary. A QIO continued stay review is required when the participant's length of stay exceeds the number of days certified by the QIO. If no initial length of stay certification was issued by the QIO, a QIO continued stay review is required when the admission exceeds a number of days as specified by the Department. (3-30-07)
- ii. Reimbursement for services originally identified as not medically necessary by the QIO will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-07)
- iii. Absent the Medicaid participant's informed decision to incur services deemed unnecessary by the QIO, or not authorized by the QIO due to the negligence of the provider, no payment for denied services may be obtained from the participant. (3-30-07)
- **b.** In reimbursing licensed hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of semi-private rates for in-patient hospital care as set forth in this rule, unless an exception applies as stated in Section 402 of these rules. The upper limits for payment must not exceed the payment which would be determined as reasonable cost using the Title XVIII standards and principles. (3-30-07)

05. Hospital Penalty Schedule.

- (3-30-07)
- a. A request for a preadmission and/or continued stay QIO review that is one (1) day late will result in a penalty of two hundred and sixty dollars (\$260), from the total Medicaid paid amount of the inpatient hospital stay.

 (3-30-07)
- **b.** A request for a preadmission and/or continued stay QIO review that is two (2) days late will result in a penalty of five hundred and twenty dollars (\$520), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)
- c. A request for a preadmission and/or continued stay QIO review that is three (3) days late will result in a penalty of seven hundred and eighty dollars (\$780), from the total Medicaid paid amount of the inpatient hospital stay.

 (3-30-07)
- **d.** A request for a preadmission and/or continued stay QIO review that is four (4) days late will result in a penalty of one thousand and forty dollars (\$1,040), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)
- e. A request for a preadmission and/or continued stay QIO review that is five (5) days late or greater will result in a penalty of one thousand three hundred dollars (\$1,300), from the total Medicaid paid amount of the inpatient hospital stay. (3-30-07)
- **06. AND Reimbursement Rate**. Reimbursement for an AND will be made at the weighted average Medicaid payment rate for all Idaho nursing facilities for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. ICF/ID rates are excluded from this calculation. (3-30-07)

- a. The AND reimbursement rate will be calculated by the Department by March 15 of each calendar year and made effective retroactively for dates of service on or after January 1 of the respective calendar year.

 (3-30-07)
- **b.** Hospitals with an attached nursing facility will be reimbursed the lesser of their Medicaid per diem routine rate or the established average rate for an AND; and (3-30-07)
- **c.** The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (3-30-07)
- **07. Reimbursement for Services.** Routine services as addressed in Subsection 405.08 of this rule include all medical care, supplies, and services which are included in the calculation of nursing facility property and non-property costs as described in these rules. Reimbursement of ancillary services will be determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)
- **08. Hospital Swing-Bed Reimbursement**. The Department will pay for nursing facility care in certain rural hospitals. Following approval by the Department, such hospitals may provide service to participants in licensed hospital ("swing-beds") beds who require nursing facility level of care.

 (3-30-07)(1-1-19)T
- **a.** Facility Requirements. The Department will approve hospitals for nursing facility care provided to eligible participants under the following conditions: (3-30-07)
- i. The Department's Licensure and Certification Section finds the hospital in conformance with the requirements of 42 CFR 482.58 "Special Requirements" for hospital providers of long-term care services ("swing-beds"), or 42 CFR 485.645 Special requirements for CAH providers of long-term services ("swing-beds") as applicable; and (3-30-07)(1-1-19)T
 - ii. The hospital is approved by the Medicare program for the provision of "swing-bed" services; and (3-30-07)
- iii. The facility does not have a twenty-four (24) hour nursing waiver granted under 42 CFR 488.54(c); and (3-30-07)
- iv. The hospital must not have had a swing-bed approval terminated within the two (2) years previous to application for swing-bed participation; and (3-30-07)
- v. The hospital must be licensed for less than one hundred (100) beds as defined by 42 CFR 482.58(a)(1) for swing-bed purposes; and (3-30-07)
- vi. Nursing facility services in swing-beds must be rendered in beds used interchangeably to furnish hospital or nursing facility-type services. (3-30-07)
- **b.** Participant Requirements. The Department will reimburse hospitals for participants under the following conditions: (3-30-07)
- i. The participant is determined to be entitled to such services in accordance with IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled"; and (3-30-07)
- ii. The participant is authorized for payment in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 222.02. (3-30-07)
- c. Reimbursement for "Swing-Bed" Patient Days. The Department will reimburse swing-bed hospitals on a per diem basis utilizing a rate established as follows: (3-30-07)
 - i. Payment rates for routine nursing facility services will be at the weighted average Medicaid rate per

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patient day paid to hospital-based nursing facility/ICF facilities for routine services furnished during the previous calendar year. ICF/ID facilities' rates are excluded from the calculations. (3-30-07)

- ii. The rate will be calculated by the Department by March 15 of each calendar year. The rate will be based on the previous calendar year and effective retroactively for dates of service on or after January 1 of the respective year. (3-30-07)
- iii. The weighted average rate for nursing facility swing-bed days will be calculated by dividing total payments for routine services, including patient contribution amounts but excluding miscellaneous financial transactions relating to prior years, by total patient days for each respective level of care occurring in the previous calendar year.

 (3-30-07)
- iv. Routine services include all medical care, supplies, and services which are included in the calculation of nursing facility property and nonproperty costs as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 225.01. (3-30-07)
- v. The Department will pay the lesser of the established rate, the facility's charge, or the facility's charge to private pay patients for "swing-bed" services. (3-30-07)
- vi. Reimbursement of ancillary services not included in the nursing facility rates furnished for extended care services will be billed and determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)
- vii. The number of swing-bed days that may be reimbursed to a provider in a twelve (12) month period will be limited to the greater of one thousand ninety-five (1,095) days which may be prorated over a shorter fiscal period or, fifteen percent (15%) of the product of the average number of available licensed beds in the hospital in the period and the number of days in the fiscal period. The Department may authorize additional critical access hospital swing-bed days for participants residing in a community without a nursing facility within thirty-five (35) miles contingent on a review of medical necessity, cost-effectiveness, residency, and quality of care.

 (3-30-07)(1-1-19)T
- **d.** Computation of "Swing-Bed" Patient Contribution. The computation of the patient's contribution of swing-bed payment will be in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 224. (3-30-07)
- **09. Adjustment for Disproportionate Share Hospitals (DSH)**. All Idaho hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. (3-29-10)
- a. DSH Survey Requirements. The Department will send each hospital a DSH survey on or before January 31 of each calendar year. The DSH survey must be returned to the Department on or before May 31 of the same calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. No later than July 15 of each calendar year, the Department must notify each hospital of their calculated DSH payment and notify each hospital of its preliminary calculated distribution amount. A hospital may file an amended survey to complete, correct, or revise the original DSH survey by submitting the amended survey and supporting documentation to the Department no later than thirty (30) days after the notice of the preliminary DSH calculation is mailed to the hospital. The state's annual DSH allotment payment will be made by September 30 of the same calendar year based on the final DSH surveys and Department data. (3-30-07)
 - **b.** Mandatory Eligibility. Mandatory Eligibility for DSH status will be provided for hospitals which: (3-30-07)
 - i. Meet or exceed the disproportionate share threshold as defined in Subsection 400.13 of these rules. (3-30-07)
- ii. Have at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services. (3-29-10)

- (1) Subsection 405.09.b.ii. of this rule does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or (3-30-07)
 - (2) Does not offer nonemergency inpatient obstetric services as of December 21, 1987. (3-30-07)
 - iii. The MUR will not be less than one percent (1%). (3-30-07)
- iv. If an Idaho hospital exceeds both disproportionate share thresholds, as described in Subsection 400.13 of these rules, and the criteria of Subsections 405.09.b.ii. and 405.09.b.iii. of this rule are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsections 405.09.b.vi. through 405.09.b.x. of this rule. (3-29-10)
- v. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals will receive a DSH payment equal to two percent (2%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)
- vi. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)
- vii. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates exceeding two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)
- viii. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding twenty-five percent (25%) will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)
- ix. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to, or exceeding, thirty percent (30%) will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)
- c. Deemed Disproportionate Share Hospital (DSH). All hospitals in Idaho which have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days, and meet the requirements unrelated to patient day utilization specified in Subsection 405.09.b. of this rule, will be designated a Deemed Disproportionate Share Hospital. The disproportionate share payment to a Deemed DSH hospital will be the greater of: (3-29-10)
 - i. Five dollars (\$5) per Idaho Medicaid inpatient day included in the hospital's MUR computation; or (3-30-07)
- ii. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH allotment amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (3-30-07)
- **d.** Insufficient DSH Allotment Amounts. When the DSH allotment amount is insufficient to make the aggregate amount of DSH payments to each DSH hospital, payments to each hospital will be reduced by the percentage by which the DSH allotment amount was exceeded. (3-30-07)
- e. DSH Payments Will Not Exceed Costs. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the State Plan or were uninsured for health care services provided during the year. (3-30-07)
- i. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state will not be considered a source of third party payment. (3-30-07)

- ii. Claims of uninsured costs which increase the maximum amount which a hospital may receive as a DSH payment must be documented. (3-30-07)
- **f.** DSH Will be Calculated on an Annual Basis. A change in a provider's allowable costs as a result of a reopening or appeal will not result in the recomputation of the provider's annual DSH payment. (3-30-07)
- g. To the extent that audit findings demonstrate that DSH payments exceed the documented hospital specific cost limits, the Department will collect overpayments and redistribute DSH payments. (4-7-11)
- i. If at any time during an audit the Department discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to the Department's final audit report regarding that provider, will be referred to the Medicaid Fraud Unit of the Idaho Attorney General's Office. (4-7-11)
- ii. The Department will submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with 42 CFR Part 455, Subpart D, "Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments." (4-7-11)
- iii. Beginning with FFY 2011, if based on the audit of the DSH allotment distribution, the Department determines that there was an overpayment to a provider, the Department will immediately: (4-7-11)
 - (1) Recover the overpayment from the provider; and

- (4-7-11)
- (2) Redistribute the amount in overpayment to providers that had not exceeded the hospital-specific upper payment limit during the period in which the DSH payments were determined. The payments will be subject to hospital-specific upper payment limits. (4-7-11)
- iv. Disproportionate share payments must not exceed the DSH state allotment, except as otherwise required by the Social Security Act. In no event is the Department obligated to use State Medicaid funds to pay more than the State Medicaid percentage of DSH payments due a provider. (4-7-11)

10. Out-of-State Hospitals.

- (3-30-07)
- **a.** Cost Settlements for Certain Out-of-State Hospitals. Hospitals not located in the state of Idaho will have a cost settlement computed with the state of Idaho if the following conditions are met: (3-30-07)
- i. Total inpatient and outpatient covered charges are more than fifty thousand dollars (\$50,000) in the fiscal year; or (3-30-07)
- ii. When less than fifty thousand dollars (\$50,000) of covered charges are billed to the state by the provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (3-30-07)
- **b.** Payment for Hospitals Without Cost Settlement. Those out-of-state hospitals not cost settling with the state will have annually adjusted rates of payment no greater than seventy-five percent (75%) for inpatient covered charges and no greater than eighty percent (80%) of outpatient covered charges or, the Department's established fee schedule for certain outpatient services. These rates represent average inpatient and outpatient reimbursement rates paid to Idaho hospitals. (3-30-07)
- 11. Audit Function. Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Title XVIII and Medicaid purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (3-30-07)
- 12. Adequacy of Cost Information. Cost information as developed by the provider must be current, accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to participants. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions,

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purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another.

(3-30-07)

- 13. Availability of Records of Hospital Providers. A participating hospital provider of services must make available to the Department in the state in which the facility is licensed, the provider's fiscal and other necessary records for the purpose of determining its ongoing record keeping capability and to ascertain information pertinent to the determination of the proper amount of program payments due the provider. (3-30-07)
- 14. Interim Cost Settlements. The Department may initiate or a hospital may request an interim cost settlement based on the Medicare cost report as submitted to the Medicare Intermediary. (3-30-07)
- **a.** Cost Report Data. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (3-30-07)
- **b.** Hard Copy of Cost Report. Hospitals which request to undergo interim cost settlement with Idaho Medicaid must submit a hard copy of the Medicare cost report to the Department upon filing with the Intermediary. (3-30-07)
- c. Limit or Recovery of Payment. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (3-30-07)
- 15. Notice of Program Reimbursement. Following receipt of the finalized Medicare cost report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider which sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (3-30-07)
- a. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the cost report from the Medicare Intermediary. (3-30-07)
- **b.** Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the cost report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (3-30-07)
- 16. Nonappealable Items. The formula for the determination of the hospital inflation index, the principles of reimbursement which define allowable cost, non-Medicaid program issues, interim rates which are in compliance with state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits must not be accepted as appealable items. (7-1-18)
- 17. Interim Reimbursement Rates. The interim reimbursement rates are reasonable and adequate to meet the necessary costs which must be incurred by economically and efficiently operated providers which provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. (3-30-07)
- a. Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. The interim rate will reflect the Medicaid Inpatient Operating Cost Limits used to set inpatient rates and the Reimbursement Floor Percentage. (3-30-07)

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- **b.** Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (3-30-07)
- c. Basis for Adjustments. The Department may make an adjustment based on the Medicare cost report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or greater than one hundred thousand dollars (\$100,000), the interim rate will be adjusted to account for half ($\frac{1}{2}$) of the difference. (3-30-07)
- **d.** Unadjusted Rate. The Medicaid interim reimbursement rate on file is synonymous with the term unadjusted rate used by other payors. (3-30-07)
- **18. Audits.** All financial reports are subject to audit by Departmental representatives in accordance with Section 305 of these rules. (3-30-07)

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

Laboratory rules in this chapter have not been updated since 2007. Laboratory tests have rapidly changed in the past 11 years, and a foundation in rule is needed for Department coverage of these services. This rulemaking establishes a minimum standard for necessary testing in genetics and drug testing and also establishes rules for family planning, genetic testing, and quality control to ensure appropriate use of state and federal funds.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 185 through 187.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds, or any other funds as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact William Deseron at (208) 364-1967.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Fax: (208) 334-6558

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1805

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code; also House Bill 128 (2017) codified as Section 56-265(5), Idaho Code, re: Value-Based Care.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The 2017 Idaho Legislature passed House Bill 128, amending Section 56-265(5), Idaho Code, that provided the Department with the authority to develop a value-based payment model approach to provide Medicaid services to participants. This rulemaking incorporates new procedural requirements needed to implement a fixed participant enrollment process to support the value-based model through the existing Healthy Connections Program.

The existing Healthy Connections enrollment process allows participants to change their primary care provider (PCP) any time they choose. These proposed rule changes implement an enrollment process, (referred to as a "fixed enrollment process"), which designates a set period of time where participants are free to change their PCP at will. Once this time period ends, participants will not be able to change their PCP at will until the next open enrollment period the following year. There are provisions that allow PCP changes outside of the open enrollment period, for cause, which have been added to meet the requirements of federal law. These changes encourage a long-term provider-patient relationship through which a medical home is established. This ensures the participant is receiving a consistent source of care, provides for better patient outcomes, and supports the value-based model of care, as directed by the legislature.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 188–190.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the State General Fund or any other funds for these rule changes. The rule changes are considered to be budget neutral for providers and there are no benefit changes for participants. Programmatic changes needed to implement this rulemaking are possible within existing Medicaid program funding.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cindy Brock at (208) 364-1983.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720

Boise, ID 83720-0036

Phone: (208) 334-5500 / Fax: (208) 334-6558

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1806

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code; also 42 CFR 447.502, 447.512, 447.514, and 447.518.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

These rule changes are being made to implement policy (coverage) and reimbursement changes to the Medicaid Pharmacy program rules that are the result of recent changes in federal regulations and corresponding changes that have been made to the Idaho Medicaid State Plan.

Coverage changes include provisions clarifying that:

- 1. Drugs acquired through the federal 340B drug pricing program and dispensed by 340B contract pharmacies are not covered; and
- 2. Investigational drugs are not covered under Idaho's Medicaid pharmacy program.

Reimbursement changes include replacing one cost measure (Estimated Acquisition Cost, or EAC) with the Average Acquisition Cost (AAC), or Wholesale Acquisition Cost (WAC) in cases where the AAC is not available. In addition, revisions will also update information in rule regarding which drugs are covered and which drugs are excluded.

Also, this docket updates an old list of drugs for which a three-month supply may be prescribed and dispensed. and establishes appropriate controls for prescriptions of opioids.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 191 - 204.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the State General Fund, or any other funds, related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Clay Lord at (208) 364-1979.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720

Phone: (208) 334-5500 / Fax: (208) 334-6558

Boise, ID 83720-0036

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1807

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code; also Section 1905(a) of the Social Security Act and House Bill 695 (2018).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

In House Bill 695 (2018), the Legislature directed the Department's Division of Medicaid to implement processes to improve the Non-Emergency Medical Transportation (NEMT) program. These processes will include developing and implementing a provider training program and conducting a rate review process to set reimbursement rates at a level that will enhance service quality and participant access. These rule changes are needed to meet the legislative intent of House Bill 695 (2018).

These rule changes add participation in provider training programs and rate-setting activities to the existing duties of the transportation broker described in this chapter.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 205 and 206.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact for this docket to the State General Fund for SFY 2020. The fiscal impact is limited to the amount appropriated to IDHW by the legislature in House Bill 695 (2018) for SFY 2019 for the Division of Medicaid to develop and implement a Non-Emergency Medical Transportation (NEMT) provider training program and conduct a rate review process. The rate reviews will be used to establish the contracted per member per month rate, which could in turn produce a positive or negative fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Clay Lord at (208) 364-1979.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720

Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

16.03.09 – MEDICAID BASIC PLAN BENEFITS DOCKET NO. 16-0309-1808

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

These proposed changes align definitions for CBRS in schools and in the community. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 207 through 218.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no anticipated fiscal impact to the state general fund or to any other funds

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Angie Williams at (208) 287-1169.

Dated this 16th day of November, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
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Boise, ID 83720-0036

Phone: (208) 334-5500 Fax: (208) 334-6558

16.03.09 – MEDICAID BASIC PLAN BENEFITS DOCKET NO. 16-0309-1810

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

These rule changes were prompted by upcoming changes in federal regulations specific to third-party liability. This rule change will remove the prenatal exemption language from the third-party liability rules to align with changes in the Balanced Budget Act of 2018.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 219 through 221.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the State General Fund or any other funds for this rule change. The proposed rule changes within this docket are required for federal compliance. This is part of Medicaid's normal daily operations and are typically conducted through its contract with its claims processing vendor as a routine business practice without requiring any additional federal or state funding.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cindy Brock at (208) 364-1983.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Phone: (208) 334-550 Fax: (208) 334-6558

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1807

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-264, and 56-1610, Idaho Code, and Sections 1905(a), 1915(c), and 1915(i), of the Social Security Act (SSA).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

These rules are being amended to add the requirement for termination of enrollment when a participant no longer meets Home and Community Based Services (HCBS) eligibility criteria, as required in CMS guidance for state programs operating under the federal authority of Sections 1915(c) and 1915(i) of the Social Security Act.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 222 through 224.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking is estimated to be cost-neutral with no fiscal impact to any state or federal funds. There is no estimate on the number of participants who will be impacted by this rule change as participants have the choice on whether to access services under the Sections 1915(c) and 1915(i) of the SSA.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Clay Lord at (208) 364-1979.

Dated this 16th day of November, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
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Phone: (208) 334-5500
Fax: (208) 334-6558

DOCKET NO. 16-0310-1807 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, Volume 18-10, October 3, 2018, pages 222 through 224.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

[Section 319 has revisions throughout, so it is being printed in its entirety]

319. (RESERVED) HCBS TERMINATION OF PARTICIPANT ENROLLM

<u>01.</u>	Federal and State Eligibility Requirements. To be enrolled in an HCBS waiver or State Plan	option
program as prov	vi <mark>ded in 42 CFR 441 and Section 1915 of</mark> t he S ocial Se <mark>c</mark> urity Act, a participant must me	et the
following eligibil	lity requirements that include <u>:</u>	
		
<u>a.</u>	<u>An independent assessment;</u>	()
<u>b.</u>	<u>A</u> state-approved person-centered plan;	()
<u>c.</u>	<u>At least</u> an annual redetermination of eligibility: and	<u>()</u>
<u>d.</u>	Other state-established criteria for determining eligibility under the State Plan for m	edical
assistance.	<u>-</u>	<u> </u>
<u>02.</u>	Failure to Meet Requirements. A participant who fails to meet any of the condition	ons of
participation req	uired by state established eligibility criteria is subject to termination of enrollment.	<u> </u>
	Conditions for Termination of Enrollment. The Department will terminate the enrollments enrolled in an HCBS waiver or State Plan option, or who has accessed Medicaid coverage the	nt of a
an HCBS waiver	or State Plan option under any of the following conditions. The participant:	<u>()</u>
<u>a.</u>	<u>Does not have an identified need for a waiver or State Plan option service;</u>	()
<u>b.</u>	Elects not to use <u>services offered under the HCBS waiver or State Plan option</u> :	()
<u>c.</u>	Declines to engage in person-centered planning;	<u>()</u>
<u>₫.</u>	Does not meet other HCBS requirements provided in Section 319.01 of this rule; or	()
<u>e</u> .	Is non-responsive to three or more contact attempts by the Department or its designee to engage	ge the

DEPARTMENT OF HEALTH AND WELFARE Medicaid Enhanced Plan Benefits

Docket No. 16-0310-1807 Adoption of Pending Rule

participant in fulfilling requirements.

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Ontinuous Eligibility for Children Under Age Nineteen. Continuous health care assistance eligibility for children under age nineteen (19), as provided in IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," does not apply for a participant under the age of nineteen (19) who is enrolled in an HCBS waiver or State Plan option program or who has accessed Medicaid coverage through an HCBS waiver or State Plan option program.

16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO

DOCKET NO. 16-0314-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 39-1307, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This docket proposes changes to the "Rules and Minimum Standards for Hospitals in Idaho" related to the use of restraint and seclusion, including which licensed medical professionals are permitted to order restraints or seclusion. The Department is also proposing changes in this docket that will strengthen patient rights. Other changes to this chapter are being made to meet the formatting requirements in IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator."

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 163 through 184.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to state general funds or any other funds except the costs of the rule promulgation, which includes printing and publication. Feedback from stakeholders indicate the rule changes will not result in additional costs to their operations.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dennis Kelly at (208) 334-6626.

Dated this 16th day of November, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558

DOCKET NO. 16-0314-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 163 through 184.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

A hospital mus	ENT RIGHTS. t protect and promote each patient's rights. Patient rights are provided for and described in Sections 4 of these rules.
[Subsection	0220.01]
the patient's rep whenever possi	Informed in Advance of Patient Care. A hospital must inform each patient, or when appropriate presentative or caregiver, of the patient's rights in advance of furnishing or discontinuing patient care ble.
<u>03.</u>	Specify Procedures to Inform Patient of Patient Rights.
[Paragraph]	220.03.a.J
<u>a.</u> rights before pr	The hospital must specify a procedure to inform patients, their representative, or caregiver of their oviding care.

16.03.15 – SECURE TREATMENT FACILITY FOR PEOPLE WITH INTELLECTUAL DISABILITIES DOCKET NO. 16-0315-1801

NOTICE OF RULEMAKING - AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: A temporary rule was adopted under this docket number in the April 4, 2018, Idaho Administrative Bulletin, **Vol. 18-4, pages 16 through 76**. The effective date of the amendment to the temporary rule is January 1, 2019.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has amended a temporary rule. The action is authorized pursuant to Sections 56-1003, 56-1004, 56-1004A, 56-1005, 56-1009, 66-1402, and 66-1407, Idaho Code; and H0222 (2017).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the temporary rule and a statement of any change between the text of the temporary rule and text of the extended temporary rule with an explanation for any changes:

This rule sets standards and provides the licensing requirements and the criteria for use of restrictive or secure features at this type of facility, including staffing, treatment requirements, and enforcement remedies. This rule will also provide and address client rights. Required Sections will be added to meet the APA and rules of the Office of the Administrative Rules Coordinator.

Docket No. 16-0315-1801 is being amended according to discussions with stakeholders. A change to the definition of "physical abuse" in Paragraph 010.01.a. will now contain inclusive language for "the person" temporarily housed in a Secure Treatment Facility.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule confers a benefit to and protects the rights of those receiving Department services and provides protection for the health, safety, and welfare of facility employees and the general public.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Tamara Prisock at (208) 364-1959.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500 Fax: (208) 334-6558

DOCKET NO. 16-0315-1801 – AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the temporary rule.

Red text that is underscored is new text that has been added to the temporary rule.

Italicized green text that is underscored and struck through is codified temporary text that is being removed from the temporary rule.

This docket has been previously published as a temporary rule. The amended temporary effective date is January 1, 2019.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 18-4, April 4, 2018, pages 16 through 76

Only those sections or subsections that have changed from the original temporary text are printed in this Bulletin following this notice.

010. DEFINITIONS AND ABBREVIATIONS – A THROUGH K.

For the purposes of this chapter of rules, the following terms apply.

(2-22-18)T

- **01. Abuse**. The infliction of injury, unreasonable confinement, intimidation, or punishment with the resulting physical harm, pain, or personal anguish. Specifics are as follows: (2-22-18)T
- a. Physical abuse is any action that causes physical harm or pain, trauma, or bodily harm such as hitting, slapping, punching, kicking, and pinching. It includes the use of excessive force or improper technique when placing a person in restraints, the use of restraints that are not specified in the facility's policies and procedures or ordered by the physician and consented to the person and by the legal guardian in the person's Individual Treatment Plan (ITP) and restraint of any form imposed as a means of coercion, punishment, convenience, or retaliation by staff. All injuries sustained by the person during restraint or injuries suspected to be sustained during restraint must be investigated for potential abuse.

16.05.04 – RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE GRANT FUNDING

DOCKET NO. 16-0504-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-5209, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

To best protect the public's health and safety, the Council on Domestic Violence and Victim Assistance is revising its standards manual that is incorporated by reference in this chapter of rules. The revision to these rules will ensure that the most recent edition of the manual has the force and effect of law.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 225 and 226.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund or any other funds related to this rulemaking. Programs affiliated with the ICDVVA provide fees independently. Currently there are no direct funds going to independent programs for offender intervention.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kimberly Conklin at (208) 332-1545.

Dated this 20th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036 Phone: (208) 334-5500

Phone: (208) 334-5500 Fax: (208) 334-6558

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS DOCKET NO. 16-0506-1901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2019.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code; Section 16-1647, Idaho Code; and 42 USC Section 9858f.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The Idaho Legislature passed Senate Bill 1341 during the 2018 legislative session that amended the Child Protective Act and went into effect on Sine Die, March 28, 2018. Under this bill, a new Section 16-1647, Idaho Code, was added to the Child Protective Act; it mandated the creation of Citizen Review Panels in each of the state's public health districts, comprised of volunteers who are required to review all child protective act cases open for 120 days or more. On a quarterly basis, the panels evaluate and report on recommendations to the Idaho Legislature for the improvement of the child protection system experience for children. This law requires that panel members must pass a criminal background check.

This rule change amends this chapter to authorize the Department of Health and Welfare's Criminal History Unit, to complete background checks on Citizen Review Panel Members to assist Public Health Districts to fulfill the mandates of Section 16-1647, Idaho Code. Suitability of applicant qualification are determined by each Health District. The Criminal History Unit participates only in the processing of background checks.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate to protect the public health, safety, or welfare, and to comply with deadlines in amendments to governing law. In this case, both justifications support compliance with Section 16-1647, Idaho Code, a statute that requires criminal history and background checks for volunteers serving on Citizen Review Panels for Idaho's public health districts.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

The effect of this rule change is cost-neutral to the State General Fund. The Department expects to process not more than 50 background checks for Citizen Review Panel volunteers in SFY 2019 and successive years. The background check fee to be collected for each one is sufficient to cover their costs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Fernando Castro at (208) 332-7999.

Dated this 16th day of November, 2018.

Tamara Prisock DHW - Administrative Rules Unit 450 W. State Street - 10th Floor P.O. Box 83720

Boise, ID 83720-0036

Phone: (208) 334-5500 / Fax: (208) 334-6558

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0506-1901 (Only Those Sections With Amendments Are Shown.)

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

- **01. Adoptive Parent Applicants**. Individuals who must comply with IDAPA 16.06.01, "Child and Family Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
- **02. Behavioral Health Community Crisis Centers.** Individuals who must comply with IDAPA 16.07.30, "Behavioral Health Community Crisis Centers." (4-6-15)
- **03. Behavioral Health Programs**. Individuals who must comply with IDAPA 16.07.15, "Behavioral Health Programs." (3-24-17)
- **04. Certified Family Homes.** Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
- **05. Children's Residential Care Facilities.** Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
- **06.** Children's Therapeutic Outdoor Programs. Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
- <u>07.</u> <u>Citizen Review Panel Members</u>. Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels Child Protection Legislative Review Panel." (1-1-19)T
- **078. Contracted Non-Emergency Medical Transportation Providers.** Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)
- **062. Court Appointed Guardians and Conservators.** Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. (3-20-14)
- **109. Designated Examiners and Designated Dispositioners.** Individuals who must comply with IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (3-4-11)
- **101. Developmental Disabilities Agencies**. Individuals who must comply with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
- **142. Emergency Medical Services (EMS).** Individuals who must comply with IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-24-17)
- 123. High Risk Providers of Medicaid. Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and the Medicaid Provider Handbook. (4-6-15)
- 134. Home and Community-Based Services (HCBS). Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-12)

- 145. Home Health Agencies. Individuals who must comply with IDAPA 16.03.07, "Home Health Agencies." (3-4-11)
- 156. Idaho Behavioral Health Plan (IBHP). Individuals who are contractors, contractor's employees, and subcontractors in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-6-15)
- **167. Idaho Child Care Program (ICCP).** Individuals who must comply with IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (3-4-11)
- 178. Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID). Individuals who must comply with IDAPA 16.03.11, "Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID)." (3-4-11)
- **189. Licensed Foster Care.** Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
- **1920.** Licensed Day Care. Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
- **201. Mental Health Services.** Individuals who must comply with IDAPA 16.07.33, "Adult Mental Health Services," and IDAPA 16.07.37, "Children's Mental Health Services." (4-6-15)
- **242.** Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units. Individuals who must comply with IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." (3-4-11)
- **223. Personal Assistance Agencies**. Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits."
- **234. Personal Care Service Providers.** Individuals who must comply with Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
- **245. Residential Care or Assisted Living Facilities in Idaho.** Individuals who must comply with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-4-11)
- **256. Service Coordinators and Paraprofessional Providers.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
- **267. Skilled Nursing and Intermediate Care Facilities**. Individuals who must comply with IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." (3-4-11)
- **278. Substance Use Disorders Services.** Individuals who must comply with IDAPA 16.07.17, "Substance Use Disorders Services." (7-1-18)T
- **289. Support Brokers and Community Support Workers**. Individuals who must comply with IDAPA 16.03.13, "Consumer-Directed Services." (3-4-11)

16.07.50 – MINIMUM STANDARDS FOR NONHOSPITAL, MEDICALLY MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

DOCKET NO. 16-0750-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Division has received feedback from providers approved under this rule, who indicate portions of the rules are over-prescriptive, use archaic terms and do not reflect current best practices. Internally, a policy unit rule analysis indicates that this chapter is not in alignment with other Division of Behavioral Health rules and approval practices.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 193 through 237.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

These changes include the fee structure to align with other Division of Behavioral Health rules and approval practices. The current structure is an initial \$500 application fee for programs seeking approval under the rule and an annual renewal fee of \$96 per bed. The proposed rule will reduce the initial application fee from \$500 to \$100. It will also change from an annual renewal fee of \$96 per bed to a flat \$100 renewal fee that is paid every three years. The Division has not had a new application for approval under these rules since 2015. Renewal fees for the last two SFY have been consistent at \$3648 per year. The impact of this rule change is negligible.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Adam Panitch (208) 334-4916.

Dated this 16th day of November, 2018.

Tamara Prisock DHW – Administrative Rules Unit 450 W. State Street – 10th Floor P.O. Box 83720 Boise, ID 83720-0036

Phone: (208) 334-5500 Fax: (208) 334-6558

DOCKET NO. 16-0750-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 193 through 237.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

004. INCORPORATION BY REFERENCE.

The Department has incorporated by reference the following documents in these rules.

(3-29-10)

[Subsection 004.09]

109. International Building Code, Edition 2003 IDAPA 07.03.01, "Rules of Building Safety. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: (888) 422-7233, and The agency herein incorporates by reference current rule IDAPA 07.03.01, "Rules of Building Safety-," of the Idaho State Division of Building Safety as approved by the Idaho Legislature. These rules are available online at http://www.iccsafe.org https://adminrules.idaho.gov/rules/current/07/070301.pdf. (3-29-10)(

[Subsection 004.11]

11. National Electric Code
National Electric Code AKA: NFPA Standard 70, the National Electric Code, 2000 Edition
Incorporates by reference current rule. IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code.," of
the Idaho State Division of Building Safety as approved by the Idaho Legislature. A copy of the code is
These rules are
available online at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70 https://
adminrules.idaho.gov/rules/current/07/070106.pdf.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.04.01 – RULES PERTAINING TO FOREST FIRE PROTECTION

DOCKET NO. 20-0401-1701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 38, Chapter 1, including Section 38-132, Idaho Code, and Title 38, Chapter 4, including Section 38-402, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

To implement fire protection best practices to lessen the risk of fire starts from forest operations on forest lands, the Idaho Department of Lands is amending fire protection requirements for spark arresters, fire tools and fire extinguishers, and fire crews. In addition, forest operation activities involving cable logging operations and the use of metal tracked harvesters are considered to be at greater risk of resulting in unwanted fire, and the Department is introducing new fire protection requirements for these forest operations to include on-site water supply, fire watch service, and operation area fire prevention practices.

The Department is revising spark arrester equipment requirements to align with current industry standards for internal combustion engine equipment and introducing a process to provide forest landowners and operators the ability to request an alternative practice, or Variance, that would achieve equal or better fire protection than practices as prescribed in rule. To clarify the intent of the rule for administration purposes, the Department has identified specific operation activities conducted on forest land that are subject to the fire protection requirements prescribed under Fire Tools and Fire Extinguishers and organized Fire Crews sections.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 1, 2018, Idaho Administrative Bulletin, Vol. 18-8, pages 93–100.

FISCAL IMPACT: There are no imposed fees or charges to the public associated with the administration of the pending rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact JT Wensman, Bureau Chief – Fire Management, at (208) 769-1525.

Dated this 19th day of November, 2018.

JT Wensman, Bureau Chief Fire Management Bureau Idaho Department of Lands 3284 W. Industrial Loop Coeur d'Alene, ID 83815 Phone: (208) 769-1525 Fax: (208) 769-1524

IDAPA 22 – BOARD OF MEDICINE

22.01.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO

DOCKET NO. 22-0101-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking updates and clarifies the Board's rules regarding physician licensure and practice, and ensures that the physician licensure rules are consistent with the Medical Practice Act. These rules update definitions and organizational titles, and they delete unnecessary and duplicative provisions. In addition, the current provisions of IDAPA 22.01.02 regarding registration of interns and residents and the current provisions of IDAPA 22.01.04 regarding registration of supervising and directing physicians will be updated and moved into this chapter.

Changes to the pending rule were adopted by the Idaho State Board of Medicine on December 7, 2018, and include:

- Amending language in Subsection 162.03 regarding increasing the number of physician assistants or graduate physician assistants supervised by a supervising physician or alternate supervising physician from three (3) to four (4);
- Amending language in Paragraph 165.02.a. and Subparagraph 165.02.c.i. regarding supervision of cosmetic treatment providers to clarify the frequency of physician assessment of the patient; and
- Amending language in Paragraphs 243.03.d., 243.03.e., and Subsection 244.03 regarding supervision of interns and residents to omit the requirement for identification of an alternate supervising physician.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed test are printed in this Bulletin. The complete text of the proposed rule was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, pages 56 through 76.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund. This rule eliminates registration of medical students ("externs"), which will reduce the Board's annual income by approximately \$1500.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Phone: (208) 327-7000 / Fax: (208) 327-7005

E-mail: anne.lawler@bom.idaho.gov

Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150

DOCKET NO. 22-0101-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-11, November 7, 2018, pages 56 through 76.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

162. DUTIES OF SUPERVISING PHYSICIANS.

[Subsection 162.03]

O3. Supervisory Responsibility. A supervising physician or alternate supervising physician shall not supervise more than <u>four</u> (4) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician or alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval.

(BREAK IN CONTINUITY OF SECTIONS)

165. SUPERVISING PHYSICIANS OF MEDICAL PERSONNEL.

Prescriptive medical/cosmetic devices and products penetrate and alter human tissue and can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation. Cosmetic treatments using such prescriptive medical/cosmetic devices and products is the practice of medicine as defined in Section 54-1803(1), Idaho Code. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.

<u>02.</u> <u>Duties and Responsibilities of Supervising Physicians.</u> The supervising physician accepts full responsibility for cosmetic treatments provided by medical personnel using prescriptive medical/cosmetic devices and products and for the supervision of such treatments. The supervising physician shall be trained in the safety and use of prescriptive medical/cosmetic devices and products.

[Paragraph 165.02.a.]

BOARD OF MEDICINE Medicine/Surgery & Osteopathic Medicine/Surgery Licensure

Docket No. 22-0101-1801 Adoption of Pending Rule

a. Patient Record. The supervising physician must document an adequate legible patient record	rd of his
evaluation and assessment of the patient prior to the initial cosmetic treatment. An adequate patient reco	rd must
contain, at minimum, subjective information, an evaluation and report of objective findings, assessment or di	
and the plan of care including, but not limited to, a prescription for prescriptive medical/cosmetic devi	ces and
products.	(
c. Available Supervision. The supervising physician shall be on-site or immediately available supervision.	
respond promptly to any questions or problems that may occur while a cosmetic treatment is being performance of the cosmetic treatment is being performance.	
medical personnel using prescriptive medical/cosmetic devices and products. Such supervision shall includ	e, but is
not limited to:	(

[Subparagraph 165.02.c.i.]

i. Periodic review of the medical records to evaluate the <u>prescribed</u> cosmetic treatments that are provided by such medical personnel including any adverse outcomes or changes in the treatment protocol; and

(BREAK IN CONTINUITY OF SECTIONS)

243. REQUIREMENTS FOR REGISTRATION OF INTERNS AND RESIDENTS.

Q3. Application. Each intern or resident intending to commence activities in the state of Idaho that may involve activities constituting the practice of medicine, must submit a completed registration application to the Board on forms furnished by the Board and be issued a registration certificate prior to the commencement of any such activities. Any diploma or other document required to be submitted to the Board that is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following information:

[Paragraphs 243.03.d. and 243.03.e.]

- <u>d.</u> The name and address of the supervising physician and the location of the program or course of study;
- e. The signature by the supervising physician by which they acknowledge and accept responsibility for the activities of the intern or resident;

244. GENERAL PROVISIONS FOR REGISTRATION.

[Subsection 244.03]

Q3. Registration Certificate. Upon approval of the registration application, the Board may issue a registration certificate that shall set forth the period during which the registrant may engage in activities that may involve the practice of medicine. Each registration shall be issued for a period of not less than one (1) year and shall set forth its expiration date on the face of the certificate. Each registration shall identify the supervising physician. Each registrant shall notify the Board in writing of any change of the supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the intern or resident qualified, and if the course study requires, the Board may additionally certify on the registration certificate that the intern or resident is qualified to write prescriptions for Class III through Class V scheduled medications.

IDAPA 22 - BOARD OF MEDICINE

22.01.02 – RULES OF THE BOARD OF MEDICINE FOR THE REGISTRATION OF EXTERNS, INTERNS, AND RESIDENTS

DOCKET NO. 22-0102-1801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The Notice of Proposed Rule Repeal was published in the November 7, 2018 Idaho Administrative Bulletin, Vol. 18-11, page 77.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706 Phone: (208) 327-7000

Fax: (208) 327-7005

IDAPA 22 - BOARD OF MEDICINE

22.01.03 – RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS DOCKET NO. 22-0103-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking updates and clarifies the Board's rules regarding physician assistant licensure and practice, and ensures that the physician assistant licensure rules are consistent with the Medical Practice Act. These rules update definitions and delete unnecessary and duplicative provisions. In addition, these rules add a physician assistant member and a public member to the Physician Assistant Advisory Committee and delete registration for physician assistant trainees.

Changes to the pending rule were adopted by the Idaho State Board of Medicine on December 7, 2018, and include changing Paragraph 028.01.d, the allowable number of physician assistants supervised by a single supervising physician or alternate supervising physician, from three (3) to four (4).

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed test are printed in this Bulletin. The complete text of the proposed rule was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, pages 78-90.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund. This rule eliminates registration of physician assistant trainees, which will reduce the Board's annual income by approximately \$1700.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706

Boise, Idaho 83706 Phone: (208) 327-7000 Fax: (208) 327-7005

DOCKET NO. 22-0103-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-11, November 7, 2018, pages 78 through 90.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

028. SCOPE OF PRACTICE.

01. Scope. The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. (3-16-04)

[Paragraph 028.01.d.]

d. A supervising physician or alternate supervising physician shall each not supervise more than a total of three four (34) physician assistants or graduate physician assistants contemporaneously.

IDAPA 22 - BOARD OF MEDICINE

22.01.04 – RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING AND DIRECTING PHYSICIANS

DOCKET NO. 22-0104-1801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The Notice of Proposed Rule Repeal was published in the November 7, 2018 Idaho Administrative Bulletin, Vol. 18-11, page 91.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706 Phone: (208) 327-7000

Fax: (208) 327-7005

IDAPA 22 – BOARD OF MEDICINE

22.01.05 – GENERAL PROVISIONS OF THE BOARD OF MEDICINE DOCKET NO. 22-0105-1801 (NEW CHAPTER) NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, pages 92 through 98.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706 Phone: (208) 327-7000

Fax: (208) 327-7005

IDAPA 22 - BOARD OF MEDICINE

22.01.07 – RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF MEDICINE DOCKET NO. 22-0107-1801 (CHAPTER REPEAL) NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The Notice of Proposed Rule Repeal was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, page 99.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706
Phone: (208) 327, 7000

Phone: (208) 327-7000 Fax: (208) 327-7005

IDAPA 22 – BOARD OF MEDICINE

22.01.14 – RULES RELATING TO COMPLAINT INVESTIGATION DOCKET NO. 22-0114-1801 (CHAPTER REPEAL) NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The Notice of Proposed Rule Repeal was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, page 100.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706

Phone: (208) 327-7000 Fax: (208) 327-7005

IDAPA 22 – BOARD OF MEDICINE

22.01.15 – RULES RELATING TO TELEHEALTH SERVICES DOCKET NO. 22-0115-1801 (CHAPTER REPEAL) NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized Pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to the pending rule and it is being adopted as originally proposed. The Notice of Proposed Rule Repeal was published in the November 7, 2018, Idaho Administrative Bulletin, Vol. 18-11, page 101.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Not applicable. The Board of Medicine is a dedicated funds agency, and therefore, there will be no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne K. Lawler, Executive Director, at (208) 327-7000.

Dated this 7th day of December, 2018.

Anne K. Lawler, JD, RN, Executive Director Idaho State Board of Medicine 345 W. Bobwhite Court, Suite 150 Boise, Idaho 83706

Phone: (208) 327-7000 Fax: (208) 327-7005

IDAPA 25 - IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 – RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD DOCKET NO. 25-0101-1802

NOTICE OF RULEMAKING – AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: A temporary rule was adopted under this docket number in the June 6, 2018, Idaho Administrative Bulletin, **Vol. 18-6, pages 94 through 104**. The effective date of the amendment to the temporary rule is December 10, 2018.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has amended a temporary rule. The action is authorized pursuant to Sections 36-2107(b) and (j), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for amending the temporary rule and a statement of any change between the text of the temporary rule and text of the amended temporary rule with an explanation for any changes:

Since the adoption of the temporary rule, the Outfitters and Guides Licensing Board has continued to work with licensees and the Idaho Outfitters and Guides Association regarding the designation of limited deer and elk hunting tags that are allocated for use by hunters using a licensed outfitter. The Board anticipates that legislative changes will be proposed during the 2019 Legislative Session that will affected how those limited tags are allocated for outfitted hunting and designated to individual outfitter's operating areas. However in the event legislative changes are not made and the temporary rule needs to be applied, the Board has adopted amendments to the temporary rule based on comments from licensees and interested parties during the ongoing negotiated rulemaking process.

These changes include reorganizing, refining, and clarifying definitions of terms, changes in terminology based on anticipated technology changes, and changing the basis for how allocated tags are recalculated when the Board designates allocated tags among outfitter's operating areas after five years.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to ensure the use of hunting tags that are allocated for hunters using licensed outfitters in game management areas/units/zones where there are only a limited number of deer or elk hunting tags available. The use of allocated hunting tags confers a benefit on the outfitted public, licensed outfitters, and the businesses that receive an associated positive economic impact from use of these limited hunting opportunities.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the amendments to the temporary rule, contact Lori Thomason at (208) 327-7380.

Dated this 11th day of December, 2018.

Lori Thomason Executive Director Outfitters and Guides Licensing Board 1365 North Orchard Street #172 Boise, Idaho 83706

Phone: (208) 327-7380 Fax: (208) 327-7382

DOCKET NO. 25-0101-1802 - AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the temporary rule.

Italicized red text that is <u>double underscored</u> is new text that has been added to the temporary rule.

Italicized green text that is <u>underscored and struck through</u> is codified temporary text that is being removed from the temporary rule.

This docket has been previously published as a temporary rule. The amended temporary effective date is December 10, 2018.

The original text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 18-6, June 6, 2018, pages 94 through 104

Only those sections or subsections that have changed from the original temporary text are printed in this Bulletin following this notice.

002. **DEFINITIONS.**

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

- **01. Act**. Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)
 - **02.** Administrative Noncompliance.

- (3-10-03)
- a. Two (2) or more repeated failures to apply for license renewal in a timely manner; or (3-10-03)
- **b.** Two (2) or more repeated failures to file a complete application pursuant to Section 36-2113(a)(1), Idaho Code. (3-10-03)
- **Q3.** Allocated Tag. A deer or elk tag in a capped zone or controlled hunt area that has been allocated by the Idaho Fish and Game Commission for use by hunters that have entered into an agreement to utilize the services of a licensed outfitter. (3-28-18)T
- <u>Allocated Controlled Hunt.</u> For purposes of Section 73 of these rules, an allocated controlled hunt is a hunt for a species that has a season structure and other conditions determined by the Idaho Fish and Game Commission and that has a limited number of tags, which are distributed by random drawing to hunters with a written agreement to utilize the services of a licensed outfitter. (12-10-18)T
- 0345. Authorized Person. An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer.

 (4-1-92)
 - **04<u>5</u>6. Board**. The Idaho Outfitters and Guides Licensing Board. (4-1-92)
- **0567. Board Meeting.** The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)
 - 0678. Booking Agent. Any individual, firm, business, partnership, or corporation that makes

arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

- Ose Capped Zone. A game management area, unit, or zone for which the Idaho Fish and Game Commission has limited or "capped" the number of deer or elk tags available for use in a general season hunt.

 (3 28 18)T(12-10-18)T
- **107. Compensation**. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)
- **68101. Completed Application.** An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)
- 69142. Consideration. The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)
- by the Idaho Fish and Game Commission and that has a limited number of tags, which are distributed by random drawing to hunters.

 Controlled Hunt. A hunt for a species that has a season structure and other conditions determined by the Idaho Fish and Game Commission and that has a limited number of tags, which are distributed by random drawing to hunters.
- 1024. **Desert.** A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)
- 1425. **Designated Agent**. An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent).

 (4-11-06)
 - 1246. Drift Boats. Shall be substituted for and have the same meaning as "float boats" defined below.
- 1357. Enforcement Agent. An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)
- 1468. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)
- 1579. First Aid Card. A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)
- 16820. Fishing. Fishing activities on those waters and for those species described in the rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the "Act," fishing is defined as follows:

 (4-1-92)
 - **a.** Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

- **b.** Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)
- **c.** Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)
 - **d.** Incidental fishing means fishing conducted as a minor activity. (4-1-92)
- e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)
- **f.** Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)
- **2172. Float Boats.** Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)
- #82@2. Guide. An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)
- 492±3. Guide License. A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)
- **2024. Hazardous Excursions.** Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, guiding courses, rescue courses, fishing courses, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. (3-29-10)
 - 2435. He/His/Him. Shall mean either the male or female gender.
- <u>26.</u> <u>Historic Use. For purposes of the designation of allocated tags in capped zones and controlled</u> hunts as set forth in Sections 057 and 073 of these rules, the following definitions of historic use apply: (12-10-18)T
- <u>a.</u> Reported Historic Use. The number of tags that were used by clients of an outfitter within the preceding five (5) years in a capped zone for the same type of tag that is being designated or in a controlled hunt with the same area, season structure, and conditions for the same type of tag that is being designated based on an outfitter's use reports.

 [12-10-18]T
- <u>b.</u> <u>Verified Historic Use. The number of tags that were used by clients of an outfitter in a capped zone that is verified by documentation or other reliable information acceptable to the Board. (12-10-18)T</u>
- <u>c.</u> <u>Verified Allocated Historic Use. The number of allocated tags that were used by clients of an outfitter in a capped zone that is verified by documentation or other reliable information acceptable to the Board. (12-10-18)T</u>
- **2247. Hunting.** The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-30-01)

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2358. Incidental Activity. Shall be and is the same as a minor activity. (4-1-92)

(4-1-92)

- **2469. Minor Amendment.** All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-11-06)
- 25730. Investigator. An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer.

 (4-1-92)
- 26831. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter.

 (4-1-92)
- **27232. Major Amendment**. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)
- **283.03. Minor Activity.** A licensed activity the nature of which must be carried out in conjunction with a major activity, but is not the primary purpose of the excursion. (3-15-02)
- **29314. Mountainous**. A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steepsided land masses of impressive size and height. (4-1-92)
- 3025. New Opportunity. A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)
- 3136. Nonresident. An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)
- **3247. Operating Area.** The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)
- 3358. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)
- **3469. Outfitter.** An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)
- 35740. Outfitter License. A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Section 36-2102(b), Idaho Code. The conduct of an outfitted operation on any land(s) is not authorized unless signed permission, a permit, or a lease is obtained from the land owner(s), or their agent(s), and filed with the Board. (3-15-02)
- 36841. Out-of-Pocket Costs. The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)
 - **a.** Compensation for either sponsors or participants; (4-1-92)
 - **b.** Amortization or depreciation of debt or equipment; or (4-1-92)
 - c. Costs of non-expendable supplies. (4-1-92)

- 39. Parent Controlled Hunt. The controlled hunt without allocated tags that corresponds with the controlled hunt with allocated tags for the same hunt area, season dates, species, and other conditions. (3-28-18)?
- **37402. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01, 059.02 and 059.03 of these rules. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-1-92)
- 38413. Relinquishment of License Privileges. The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)
- **39424. Resident**. An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)
 - 4025. Rules. The Rules of the Board. (4-1-92)
- 4146. Stay of Board Action. An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)
- 4257. Third Party Agreement. The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023).

 (4-1-92)
- 4368. Trainee. A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision.
- **44<u>79</u>. Boat Trainee Under Supervision**. A boat trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (3-10-03)
- 45<u>0</u>. Unethical/Unprofessional Conduct. Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to:
 (3-30-01)
 - a. An outfitter employing an unlicensed guide; (3-30-01)
 - **b.** Providing false, fraudulent or misleading information to the Board; (3-30-01)
 - **c.** Failure to obey an order of the Board; (3-30-01)
 - **d.** Failure to provide services as advertised or contracted; (3-30-01)
 - e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)
 - **f.** Violation of state or federal fish and game laws; (3-30-01)
- g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)
- **h.** Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)
 - i. Failure to pay a supplier of goods or services to the outfitter business; (3-15-02)

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- j. Failure to pay state taxes; or (3-15-02)
- **k.** Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)
- **l.** Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. (4-11-06)
- 46<u>9</u>51. Validated Training Form. An approved form bearing the "Great Seal of the State of Idaho" and the official stamp of the Board affixed thereon. (4-1-92)
- 47502. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices.

 (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

057. <u>DESIGNATION AMONG OPERATING AREAS OF</u> ALLOCATION OF DEER AND ELK TAGS IN A CAPPED ZONE.

When there are a limited number of deer or elk tags available for use in a game management area, unit, or zone pursuant to Section 36-408(4), Idaho Code, the Board will designate The number of deer or elk tags allocated for clients of outfitters among the authorized operating areas within each game management area, unit or zone will be determined by the Board pursuant to Sections 36-408(3) and 36-408(4), Idaho Code, and Department of Fish and Games rules, IDAPA 13.01.04, "Rules Governing Licensing" Sections 500, 505, and 506, capped zone based on historical use and a tag allocation factor shall be noted on the license of each outfitter so affected and in an equitable manner designed to maximize the use of the allocated tags by the public in capped zones as authorized by Section 36-2107(j), Idaho Code.

(3-23-98)(3-28-18)T

- O1. Initial Calculation and Designation of Allocated Tags Among Operating Areas. When the Idaho Fish and Game Commission initially limits the deer or elk tags available for a capped zone, the Board will conduct an initial calculation to determine the number of allocated deer or elk tags designated for each eligible outfitter. For purposes of these rules, an eligible outfitter is an outfitter whose operating area is within the capped zone and whose licensed activities include hunting the species for the type of tag that is being limited. The initial calculation will apply for a period of five (5) years.

 (3-28-18)T
- a. Number of Designated Allocated Tags. The initial calculation to determine the number of designated allocated tags for each outfitter in the capped zone will be conducted by dividing an outfitter's reported historic use by the total reported historic use of all outfitters in the capped zone and then multiplying by the total number of allocated tags for the capped zone and rounding to the nearest whole number. The result is the number of allocated tags designated for the outfitter. Any allocated tags that are not designated for an outfitter because of rounding will be placed in a surplus pool for the capped zone.

 (3-28-18)T
- <u>b.</u> <u>Reported Historic Use. Reported historic use is the number of clients that an outfitter has provided services to within the preceding five (5) years in the capped zone for the type of allocated tag that is being designated, as identified by an outfitter's use reports.

 (3-28-18)T</u>
- Stipulation by Outfitters. Outfitters in a capped zone may submit to the Board a written stipulation determining the number of allocated tags designated for each outfitter within the capped zone. The stipulation must be signed by all eligible outfitters in the capped zone. If the Board accepts the stipulation, the stipulation will be effective for a five (5) year period unless otherwise specified in the stipulation. In no event will the stipulation be effective for more than a (5) year period. In the event that the Idaho Fish and Game Commission makes an adjustment in the number of allocated tags available for a capped zone, the stipulation is deemed rescinded and of no effect. A new written stipulation may be submitted to the Board in connection with the calculation conducted pursuant to Subsection 057.043 of these rules.
 - i. Any outfitter may petition the Board to withdraw from the stipulation for good cause at any time. If

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the Board grants the withdrawal, then the Board will conduct an initial calculation to designate the allocated tags among the outfitters in that capped zone for the remainder of the calculation period. (3-28-18)T

- ii. A stipulation does not affect the ability of an outfitter within the capped zone to obtain allocated tag(s) from another outfitter or from the surplus pool, as provided in these rules. (3-28-18)T
- Objection to Initial Calculation. An outfitter who believes the initial calculation is incorrect may object to the initial calculation by filing a petition in accordance with the Idaho administrative procedures act with the Board along with any supporting information or documentation.

 (3-28-18)T
- i. The Board will give notice regarding the petition to all other eligible outfitters in the capped zone for which the initial calculation was conducted. (3-28-18)T
 - ii. The outfitter bears the burden of establishing that the initial calculation was incorrect. (3-28-18)T
- <u>Q2.</u> Recalculation and Designation of Allocated Tags Among Operating Areas. The designation of allocated tags among the outfitters in a capped zone will be recalculated for each five (5) year period. (3-28-18)T
- allocated tags for each eligible outfitter will be conducted by averaging identifying the outfitter's best one (1) year of verified allocated historic use of allocated tags in each year during the preceding five (5) year period and rounding to the nearest whole number or as otherwise specified by the Idaho Fish and Game Commission. The result is the number of allocated tags designated for the outfitter. Verified historic use is the number of allocated tags for the capped zone that were used by a client of the outfitter and for which the outfitter received a voucher from the Board.

 (3-28-18)T(12-10-18)T
- i. If the number of allocated tags for a capped zone is less than the total number of designated tags, then the recalculation to determine the number of designated allocated tags for each eligible outfitter will be conducted by an initial calculation as set forth in these rules to designate the allocated tags among the operating areas in the capped zone, except that the Board shall use verified allocated historic use rather than reported historic use for the recalculation.

 (12-10-18)T
- <u>ii.</u> <u>If the number of allocated tags for a capped zone exceeds the total number of designated tags, the remainder of the allocated tags will be placed in the surplus pool for the capped zone for use by all eligible outfitters in the capped zone, as provided in these rules.

 (12-10-18)T</u>
- b. Stipulation by Outfitters. Outfitters in a capped zone may submit to the Board a written stipulation determining the number of allocated tags designated for each outfitter within the capped zone. The stipulation must be signed by all eligible outfitters in the capped zone. If the Board accepts the stipulation, the stipulation will be effective for a five (5) year period unless otherwise specified in the stipulation. In no event will the stipulation be effective for more than a five (5) year period.

 (3-28-18)T
- i. Any outfitter may petition the Board to withdraw from the stipulation for good cause at any time. If the Board grants the withdrawal, then the Board will conduct a recalculation to designate the allocated tags among the operating areas in that capped zone for the remainder of the calculation period. (3-28-18)T
- ii. A stipulation does not affect the ability of an eligible outfitter to obtain allocated tag(s) from another outfitter or from the surplus pool, as provided in these rules. (3-28-18)T
- exceeds the total number of designated tags, the remainder of the allocated tags will be placed in the surplus pool for the capped zone for use by all eligible outfitters in the capped zone, as provided in these rules.

 Remaining Allocated Tags after Recalculation. If the number of allocated tags for a capped zone exceeds the total number of designated tags, the remainder of the allocated tags will be placed in the surplus pool for the capped zone for use by all eligible outfitters in the capped zone, as provided in these rules.
- <u>#c.</u> Hardship Request. An outfitter may submit to the Board a written request to change the basis of its recalculation from average verified historic use when the outfitter can demonstrate hardship, including health, act of nature, state or federal restrictions on hunting or access or other good cause, that prohibited or limited the outfitter's

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ability to seek and accommodate clients and impacted the outfitter's use of designated allocated tags. The outfitter must provide any information requested by the Board to assist in substantiating hardship cases.

 $\frac{(3-28-18)T}{(12-10-18)T}$

- d. Objection to Recalculation. An outfitter who believes the recalculation is incorrect may object to the recalculation by filing a petition in accordance with the Idaho administrative procedures act with the Board along with any supporting information or documentation. The outfitter shall bear the burden of establishing that the recalculation was incorrect.

 (3-28-18)T
- <u>03.</u> Adjustment of Allocated Tags. In the event that the Idaho Fish and Game Commission makes an adjustment in the number of allocated tags available for a capped zone, the Board will conduct an initial calculation as set forth in these rules to designate the allocated tags among the operating areas in the affected capped zone, except that the Board shall use verified historic use rather than reported historic use for the calculation. (3-28-18)T
- <u>Use of Designated Allocated Tags</u>. An outfitter's designation of allocated tags for a particular year will be held until the third Wednesday in May of that year. The Board will issue an <u>voucher</u> <u>authorization</u> for each allocated tag as proof of the Board's designation of the allocated tag.

 <u>(3-28-18)T</u>(12-10-18)T
- a. Request for <u>Voucher for Authorization to Use a</u> Designated Allocated Tag. Beginning December 1, an outfitter may request <u>a voucher authorization</u> for <u>the use of</u> an allocated tag by submitting a written request identifying the capped zone, type of tag requested, and the name of the client who will be using the allocated tag. All <u>vouchers</u> <u>authorizations</u> expire on July 31.
- i. <u>An authorization is valid only for the client identified to the Board by the outfitter.</u> When the identified client is unable to use the designated allocated tag, the outfitter must promptly notify the Board and return the voucher or may provide the name of another client who will be using the allocated tag. (3 28 18)T(12-10-18)T
- ii. The outfitter is responsible for retaining documentation of the use of the <u>voucher authorization</u> and the client who used the corresponding allocated tag. The documentation must be retained for a period of five (5) years and is subject to audit by the Board.

 (3-28-18)T(12-10-18)T
- b. Unused Designated Allocated Tags. Designated allocated tags that are not requested by the outfitter by the third Wednesday in May will be placed in the surplus pool. (3-28-18)T
- <u>c.</u> Release and Surrender of Tags. An outfitter who does not wish to use some or all of its designated allocated tags may choose to release its tags to another outfitter or may surrender its tags. (3-28-18)T
- i. An outfitter may not release tags until the surplus pool for the capped zone has been exhausted. When there are no allocated tags available in the surplus pool for a capped zone, an outfitter may release designated allocated tag(s) to another eligible outfitter by submitting a written statement to the Board identifying the number and type of allocated tag and the outfitter to which the allocated tag is being released. The releasing outfitter will receive credit toward historical use for the released tag as if the outfitter had used the tag for its own client.

(3-28-18)T(12-10-18)T

- ii. An outfitter may surrender designated allocated tag(s) by submitting a verified statement on a form approved by the Board. The surrendered allocated tag(s) will be placed in the surplus pool. The outfitter will not receive credit toward historical use for the surrendered allocated tags.

 (3-28-18)T(12-10-18)T
- d. Surplus Pool. When an allocated tag for a capped zone is not designated for an individual outfitter, the allocated tag is placed in a surplus pool and is available for use by any eligible outfitter, as follows: (3-28-18)T
- <u>i.</u> Outfitters who have claimed allocated tags from the Idaho Fish and Game Department for all of the outfitter's designated allocated tags may request an allocated tag from the surplus pool beginning December 1.

 (3-28-18)T
 - ii. An outfitter who was not designated any allocated tags may request an allocated tag from the

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surplus pool beginning March 1.

(3-28-18)T

- iii. Subject to the conditions in Paragraphs 057.04.d.i. and 057.04.d.ii. of these rules, <u>Aallocated tags</u> in the surplus pool will be designated on a first-come, first-served basis. (3 28 18)T(12-10-18)T
- iv. An outfitter may request a voucher designation and authorization for an allocated tag from the surplus pool by submitting a written request in the same manner and under the same conditions as set forth in Subsection 057.04.a of these rules.

 (3-28-18)T(12-10-18)T
- v. The outfitter will receive credit toward historic use for the allocated tag designated from the surplus pool, provided the outfitter's client uses the allocated tag. (3-28-18)T
- <u>e.</u> Waiting List. When a capped zone does not have a surplus pool, the Board will maintain a waiting list in the event allocated tags are placed in the surplus pool. An outfitter must provide a client name to be placed on the waiting list and the waiting list will be in the order in which the requests were received. (3-28-18)T
- Ob. Change in Operating Area or Owner of Business. When an outfitting business is sold or when an operating area is adjusted and designated allocated tags are associated with the affected operating area, the Board may re-designate the associated allocated tags as follows:

 (3-28-18)T
- <u>a.</u> Sale of Business. In the event that an outfitting business is sold, the allocated tags designated for the operating area(s) and the historic use of allocated tags will transfer with the sale. (3-28-18)T
- b. Vacated or Abandoned Area. In the event that an operating area is vacated or abandoned and is licensed to a new eligible outfitter, the new outfitter will be designated the number of allocated tags that were previously designated for the operating area. In the event that an operating area is vacated or abandoned and is not licensed to a new eligible outfitter, the tags previously designated for the operating area will be placed in the surplus pool.

 (3-28-18)T
- c. Adjustment in Areas. When an operating area is adjusted as provided by these rules, all or some of the tags previously designated for the affected operating area may be placed in the surplus pool or designated to other eligible outfitters. Any such change in the designation of tags will be done by the Board based on the totality of the circumstances, which may include the size or proportion of the adjusted areas, biological considerations of the adjusted area, and demonstrated need of each outfitter affected by the adjustment.

 (3-28-18)T

(BREAK IN CONTINUITY OF SECTIONS)

<u>073.</u> <u>DESIGNATION AMONG OPERATING AREAS OF ALLOCATED CONTROLLED HUNT DEER</u> AND ELK TAGS.

When there are a limited number of deer or elk tags available for use in a game management area, unit, or zone pursuant to Section 36-408(4), Idaho Code, the Board will designate the tags allocated for clients of outfitters among the authorized operating areas within each controlled hunt area based on historical use and in an equitable manner designed to maximize the use of the allocated tags by the public in controlled hunt areas as authorized by Section 36-2107(j), Idaho Code.

(3-28-18)T

- O1. Calculation and Designation of Allocated Tags Among Operating Areas. When the Idaho Fish and Game Commission limits the deer or elk tags available for a controlled hunt area, the Board will conduct a calculation to determine the number of allocated deer or elk tags designated for each eligible outfitter. For purposes of this rule, an eligible outfitter is an outfitter whose operating area is within the controlled hunt area and whose licensed activities include hunting the species for the type of tag that is being limited.

 (3-28-18)T
- a. Number of Designated Allocated Tags. The calculation to determine the number of designated allocated tags for each outfitter for a controlled hunt will be conducted by dividing an outfitter's reported historic use of tags for the parent controlled hunt by the total reported historic use of all outfitters for the parent controlled hunt and then multiplying by the total number of allocated tags for the controlled hunt and rounding to the nearest whole

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number. The result is the number of allocated tags designated for the outfitter. Any allocated tags that are not designated for an outfitter because of rounding will be designated for the outfitter who has been licensed for the longest amount of time for hunting in the controlled hunt area for the species for the type of tag being limited.

(3-28-18)T(12-10-18)T

- <u>b.</u> Reported Historic Use. Reported historic use is the number of clients that an outfitter has provided services to within the preceding five (5) years in the parent controlled hunt.

 (3-28-18)T
- <u>eb.</u> No Reported Historic Use. In the event there is no reported historic use by any outfitter for the parent a controlled hunt with the same hunt area, season dates, species, and other conditions as the allocated controlled hunt, the basis of the calculation will be:

 (3-28-18)T(12-10-18)T
- i. Reported historic use in the general hunt that matches the species, season structure, and conditions for the allocated tags; or if there is no reported historic use on that basis,

 (3-28-18)T
- ii. Reported historic use in the controlled hunt area that matches the species and conditions for the allocated tags; or if there is no reported historic use on that basis,

 (3-28-18)T
- iii. Equally between the eligible outfitters in the controlled hunt area. If there are remaining allocated tags after each outfitter has been designated an equal number of allocated tags, remaining tags will be designated in the order of seniority of licensure. Seniority is based on the longest length of time of licensure for hunting for the species for the type of tag being limited in the controlled hunt area.

 (3-28-18)T
- written stipulation determining the number of allocated tags designated for each outfitter within the controlled hunt area. The stipulation must be signed by all eligible outfitters licensed in the controlled hunt area. In the event that the Idaho Fish and Game Commission makes an adjustment in the number of allocated tags available for a controlled hunt area, the stipulation is deemed rescinded and of no effect. A new written stipulation may be submitted to the Board in connection with the calculation conducted pursuant to Subsection 073.044 of these rules.

(3-28-18)T(12-10-18)T

- i. Any outfitter may petition the Board to withdraw from the stipulation for good cause at any time. If the Board grants the withdrawal, then the Board will conduct a calculation to designate the allocated tags among the operating areas in that controlled hunt area. (3-28-18)T
- ii. A stipulation does not affect the ability of an outfitter within the controlled hunt area to obtain allocated tag(s) from another outfitter, by notifying the Board of the controlled hunt number and the outfitter receiving the designated allocated tag. (3-28-18)T
- Objection to Calculation. An outfitter who believes the calculation is incorrect may object to the calculation by filing a petition in accordance with the Idaho administrative procedures act with the Board along with any supporting information or documentation.

 (3-28-18)T
- <u>a.</u> The Board will give notice regarding the petition to all other eligible outfitters in the controlled hunt area for which the calculation was conducted. (3-28-18)T
 - **b.** The outfitter bears the burden of establishing that the calculation was incorrect. (3-28-18)T
- O3. Hardship Request. An outfitter may submit to the Board a written request to change the basis of its calculation when the outfitter can demonstrate hardship, including health, act of nature, state or federal restrictions on hunting or access or other good cause, that prohibited or limited the outfitter's ability to seek and accommodate clients and impacted the outfitter's use of designated allocated tags. The outfitter must provide any information requested by the Board to assist in substantiating hardship cases.

 (3-28-18)T
- **04.** Adjustment of Allocated Tags. In the event that the Idaho Fish and Game Commission makes an adjustment in the number of allocated tags available for an allocated controlled hunt, the Board will conduct a calculation as set forth in these rules to designate the allocated tags among the operating areas in the affected

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allocated controlled hunt, except that the Board shall include use in the calculation the verified historic use of tags from the parent controlled hunt in the calculation with the same hunt area, season dates, species, and other conditions as the allocated controlled hunt.

- O5. Use of Designated Allocated Tags. The Board will issue an eertification form authorization for each designated allocated tag specifying the controlled hunt number for which it is valid. The eertification form authorization may be submitted by the Board or the outfitter to the Idaho Fish and Game Commission as proof of the Board's designation of the allocated tag. Applications for allocated tags for an allocated controlled hunt must be submitted to the Idaho Fish and Game Department in accordance with the rules and deadlines established by the Idaho Fish and Game Commission.

 (3-28-18)T(12-10-18)T
- <u>06.</u> <u>Non-use of Designated Allocated Tags</u>. The Board will evaluate the use of designated allocated tags under the standards of non-use in Section 024 of these rules. (3-28-18)T
- O7. Change in Operating Area or Owner of Business. When an outfitting business is sold or when an operating area is adjusted and designated allocated tags are associated with the affected operating area, the Board may re-designate the associated allocated tags in accordance with Subsection 057.05 of these rules. (3-28-18)T

0734. -- 999. (RESERVED)

IDAPA 28 – DEPARTMENT OF COMMERCE

28.02.03 – RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM DOCKET NO. 28-0203-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the end of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4702, 67-4715 and 67-4717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The Idaho Department of Commerce proposed this rule to define and clarify allowable costs of the Idaho Regional Travel and Convention Grant Program. This pending rule implements the temporary rule adopted on March 2, 2018. There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 411 through 414.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact. Administrative costs remain at 10% of the grant award, capped at \$25,000. There is no proposed change to the 10% or the cap of \$25,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Matt Borud at (208) 334-2470.

Dated this 12th day of December. 2018.

Bobbi-Jo Meuleman, Director Idaho Department of Commerce 700 W. State St., 2nd Floor Boise, ID 83702 Phone: (208) 334-2470

Phone: (208) 334-2470 Fax: (208) 334-2631

IDAPA 34 – SECRETARY OF STATE

34.06.02 – RULES GOVERNING THE ELECTRONIC RECORDING OF PLATS, RECORDS OF SURVEY, AND CORNER RECORDS

DOCKET NO. 34-0602-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The Secretary of State finds that it is in the public interest to implement a new chapter describing the process and requirements for electronic recording of plats, records of survey and corner records as the implementation of electronic recording will improve the efficiency of operations for those recording and the counties receiving the documents.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 1, 2018, Idaho Administrative Bulletin, Vol. 18-8, pages 144–147.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state of Idaho. The rule change will not increase costs to any state agency or the general funds of the state of Idaho because the rule relates to the method of recording legal documents in a courthouse in a more efficient and cost-effective manner.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Judge at (208) 373-7210.

Dated this 6th day of September, 2018.

Chad Houck Deputy Secretary of State P.O. Box 83720 Boise, ID 83720-0080 Phone: (208) 332-2862 Fax: (208) 334-2282

E-mail: chouck@sos.idaho.gov

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 015, 017, 075, 108, 185, 253, 263, 300, 745-748, 755-759, 760, 763, 765-767, 790, 791, 793, 799, 830, 890, and 891, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the August 1, 2018 Idaho Administrative Bulletin, Vol. 18-8, pages 148-174.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

Cynthia Adrian, Income Tax Policy Specialist State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7670 Fax: (208) 334-7844

Cynthia.Adrian@tax.idaho.gov

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 171 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, pages 423-425.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

Cynthia Adrian, Income Tax Policy Specialist State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7670

Fax: (208) 334-7844

Cynthia.Adrian@tax.idaho.gov

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 037, 049, and 068, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the August 1, 2018, Idaho Administrative Bulletin, Vol. 18-8, pages 176-182.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531

Leah.Parsons@tax.idaho.gov

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 003, 107, and 110, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 426-431.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Leah.Parsons@tax.idaho.gov

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to Rules 018, 077, 106, 117, and 128, and they are being adopted as originally proposed. A change was made to Rule 041. Initially, the proposed rule removes Paragraph 041.12.c. from the examples of items subject to tax, and moved this text to become Paragraph 041.11.d. Based upon feedback received during the comment period, it was determined that the move did not provide enough clarity. Going forward, Subsection 041.11 will remain as codified with no new text, however Paragraph 041.12.c. will remain stricken, as shown in the proposed rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 432-449.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531

Leah.Parsons@tax.idaho.gov

DOCKET NO. 35-0102-1803 - ADOPTION OF PENDING RULE

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-10, October 3, 2018, pages 432 through 449.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

(New text in Paragraph 041.11.d. has been removed. Subsection 041.11 remains as codified. Text in Paragraph 041.12.c. remains stricken.)

041. FOOD, MEALS, OR DRINKS (RULE 041).

Sections 63-3612(2)(b), 63-3621(p), and 63-3622J, Idaho Code

- 11. Nontaxable Purchases by Establishments Selling Meals or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. A resale certificate must be provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include:

 (3-15-02)
- **a.** Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)
- **b.** Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)
- **c.** Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks.
- 12. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is subject to the tax when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include:
- **a.** Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)
- **b.** Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)
- e. Complimentary candies, popeorn, drinks, or food, when patrons are not required to purchase other food, meals, or drinks in order to receive the complimentary goods.

 (7-1-93)

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There is no change to Rules 312, 408, 610, 613, 614, 630, 709, 803, and 804 and they are being adopted as originally proposed.

Two changes were made to proposed Rule 802:

- The deletion of Paragraph 802.06.c. and appropriate re-lettering of subsequent paragraphs; and
- The reference in Paragraph 802.6.b. has been updated.

Four changes were made to proposed Rule 962:

- In 962.03.e. the period has been changed to a semicolon;
- In 962.05.b.iv. the word "and" was added at the end of the next to last item in a list;
- In 962.05.d.ii. the word "the" was changed to the word "any"; and
- In 962.05.d.ii. the word "plot" was changed to "plots".

The text of the proposed rule has been amended at this pending stage, in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, Vol. 18-9, pages 345-384. A notice of correction regarding Rule 709 was published in the October 3, 2018 Idaho Administrative Bulletin, Vol. 18-10, page 450.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7742

alan.dornfest@tax.idaho.gov

DOCKET NO. 35-0103-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 345 through 384.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).

Sections 63-802, 63-301A, 63-602W, and 63-602NN, Idaho Code

[Subsection 802.06 is being reprinted in its entirety due to reordering]

06. Change in Status. (4-2-08)

- a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W(3) or (4), Section 63-602E(3), or Section 63-602NN, Idaho Code. For any such property, the amount that may be included on the new construction roll shall be the value of the portion of the property subject to the exemption at the time the exemption was first granted. For otherwise qualifying property that loses the exemption provided in Section 63-602NN, Idaho Code, but that has had its value added to the base assessment roll in a revenue allocation area as provided in Rule 804 of these rules, the value so added may be added to the new construction roll. Examples of special cases for the exemption provided in Section 63-602W(4), Idaho Code, follow:
- i. If the exemption is lost by June 30 of the year in which the exempt amount was to be subtracted from the new construction roll, then there shall be no subtraction, nor shall the formerly exempt amount be added, to the new construction roll, unless it had been previously subtracted from a new construction roll. For example, the property first became exempt in 2012, but lost the exemption by June 30, 2013. The 2013 new construction roll was not adjusted downward, so any previous inclusion of the exempt value would not be added in the future. Had the property lost the exemption later in 2013, there would have been a subtraction from the 2013 new construction roll and a subsequent addition to the 2014 new construction roll. (4-4-13)
- ii. If the exemption was granted to property for which no value had been added to any new construction roll, the value of the property (site improvements) at the time the exemption was first granted may be added to the new construction roll following loss of the exemption. (4-4-13)
- **b.** <u>UExcept as provided in Paragraph 802.06.d.</u> of this rule, upon receipt by the State Tax Commission of a resolution recommending adoption of an ordinance for termination of an RAA under Section 50-2903(5), Idaho Code, any not previously included positive difference of the most current increment value minus the "incremental

value as of December 31, 2006," or the entire current increment value, if there was no such value as of December 31, 2006, shall be added to the appropriate year's new construction roll. Upon the effective date of any de-annexation of a portion of an RAA, the immediate prior year's increment value associated with the parcels in the de-annexed area is to be included in the appropriate year's new construction roll as described in Paragraph 802.06.d. of this rule, provided such value has not been previously included on any new construction roll. When this information is received after the fourth Monday in July, this positive net increment value shall be added to the following year's new construction roll.

[Proposed change to new Paragraph 802.06.c. has been withdrawn]

- c. Upon receipt by the State Tax Commission of an attestation indicating that an urban renewal plan has been modified in such a way as to result in resetting the base value in an RAA, as provided in Section 50-2903A, Idaho Code, increases in base value due to the addition of previously determined increment value may be added to the new construction roll as described in Section 63-301A(3)(j), Idaho Code, provided such value has not previously been included on any new construction roll. In such a case, at termination of the RAA, only new additional increment value following the reset of the base value shall be included on the new construction roll. (3-29-17)
- **d.** When a portion of an RAA is de-annexed, the following steps must be used to determine the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006." (4-7-11)
 - i. Step 1. For the parcels in the de-annexed area, determine the December 31, 2006, increment value.

 (4-7-11)
- ii. Step 2. Subtract the increment value determined in Step 1 from the immediate prior year's increment value for the parcels in the de-annexed area. (3-29-17)
- value. Step 3. Add any positive difference calculated in Step 2 to the current year's new construction roll (4-7-11)
- iv. Step 4. Adjust the "incremental value as of December 31, 2006" for the RAA by subtracting the increment value determined in Step 1. (4-7-11)
- v. The following table shows the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006" applicable to the adjusted remaining RAA. The table assumes an area is de-annexed from an original RAA effective December 31, 2016.

Steps (as designated in Paragraph 802.06.d.)	Area	Value
	December 31, 2006, increment value of the original RAA	\$10,000,000
Step 1	December 31, 2006, increment value of the de-annexed area	\$1,000,000
	December 31, 2015, increment value of the de-annexed area	\$3,000,000
Steps 2 and 3	Amount related to the de-annexed area to be added to the 2017 new construction roll	\$2,000,000
Step 4 Adjustment amount to be deducted from the original RAA's "incremental value as of December 31, 2006"		<\$1,000,000>
Adjusted "incremental value as of December 31, 2006" for the remaining RAA (base for future new construction roll additions upon dissolution of all or part of remaining RAA)		\$9,000,000

(3-29-17)

- vi. If the de-annexation in the example in sub-paragraph v. had taken effect prior to the fourth Monday of July 2016, the 2015 increment value for the affected parcels would have been added to the 2016 new construction roll after subtracting the 2006 increment value. (3-29-17)
- vii. The value of operating property increment value to be included on the new constriction roll when a de-annexation occurs is computed as shown in the following example:

Sum the previous year's increment values of the locally assessed parcels in the area to be de-annexed	\$15,000,000	
Divide this sum by the previous year's increment value of all locally assessed parcels in the RAA	\$15,000,000 ÷ \$130,000,000=.1154	
Multiply by 100 to determine the percentage applicable to the locally assessed parcels located within the area to be de-annexed	.1154 x 100 = 11.54%	
Determine the difference between the operating property increment value in the whole RAA for the year preceding the de-annexation from the 2006 increment value of all operating in the whole RAA	\$2,000,000 - \$500,000 = \$1,500,000	
Multiply the locally assessed percentage by the increase in the operating property increment value	11.54% x \$1,500,000 = \$173,100	
The value of operating property increment to be included on the new construction roll when a de-annexation occurs	\$173,100	

(3-29-17)

End To taxing districts formed after December 31, 2006, or annexing or being annexed into a revenue allocation area after that date, the amount of increment value to be added to the new construction roll will equal any positive difference between the increment value at the time of formation of the taxing district or annexation by or into the revenue allocation area and the increment value at the time of dissolution of the revenue allocation area or the increment value within the area deannexed from the revenue allocation area.

(BREAK IN CONTINUITY OF SECTIONS)

- 962. TAXATION OF <u>DESIGNATED</u> FORESTLANDS <u>UNDER THE PRODUCTIVITY OPTION</u> (RULE 962). Section 63-1705, Idaho Code
- **O3.** Classification of Forestlands. In all forest valuation zones, there shall be three (3) separate productivity classes of forestland: poor, medium, and good. These broad classes are related in the following manner by definition to the "Meyer Tables" published in "Yield of Even-Aged Stands of Ponderosa Pine" and "Haig Tables" published in "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" as both documents are referenced in Rule 006 of these rules. These classes apply to forestland which may or may not be stocked with commercial or young growth timber. (4-11-06)

[Paragraph 962.03.e. — punctuation]

e. For forest valuation zones 3 and 4, the criteria for stratification shall be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in "Forest Habitat Types of Central Idaho," as referenced in Rule 006 of these rules, with the following adjustments made in growth rates for lower moisture levels;

STATE TA	AX COMMISSION
Property	Tax Administrative Rules

Docket No. 35-0103-1801 Adoption of Pending Rule

	Reclassification of Forestlands. Except as provided in Subsection 962.06 of this rule, no parcel's ssification can be changed from the classification as of January 1, 2016, until requirements for ication, inspector qualifications, and document retention have been met.
a. landowner of rechange classification effect during	Landowner notification. Notice of intent to change classification must be provided in writing to the cord or their designee within two (2) weeks of any determination by the county assessor of intent to ation. Such notice must be provided no later than the first Monday in November for the change to be the following year. Notice may be delivered in person or by U.S. mail, or, if agreed to by the assessor ter, by electronic mail. Notice of intent to change classification includes:
<u>i.</u>	A statement of intent to change the classification:
<u>ii.</u>	A statement of the present classification and the intended new classification; ()
<u>iii.</u> sent by the first	A statement that the intent notice is not an assessment notice and that the assessment notice will be Monday in June in the following year:
[Subparagra _]	ph 962.05.a.iv.]
<u>iv.</u> be appealed to tl	A statement that both the taxable value stated on the assessment notice and the classification may be county board of equalization as provided in Section 63-501A, Idaho Code; and
<u>V.</u>	Contact information indicating assessor's office staff who may be contacted and how to do so.
d. be retained for not limited to:	Documentation and retention. Documentation related to timberland productivity classification shall to less than ten (10) years following classification determination. Documentation shall include, but is
[Subparagra _]	oh 962.05.d.ii.J
ii. coordinates;	The location of <u>any</u> field plots and any site trees using map or Global Positioning System (GPS)

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 702 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 385-386.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7742 alan.dornfest@tax.idaho.gov

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 600 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 387-388.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7742

alan.dornfest@tax.idaho.gov

35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-2427, 63-2423, and 63-2425, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 170 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 1, 2018, Idaho Administrative Bulletin, Vol. 18-8, pages 183-184.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams, (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist State Tax Commission/Product Tax 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7855 Fax: (208) 334-7844

35.01.06 – HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES DOCKET NO. 35-0106-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 003 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 389-390.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
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35.01.09 – IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES DOCKET NO. 35-0109-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1323, and 23-1303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 016 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 6, 2018, Idaho Administrative Bulletin, Vol. 18-6, pages 113–115.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams at (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist State Tax Commission/Product Tax 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7855 Fax: (208) 334-7844

35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES DOCKET NO. 35-0110-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-2510, and 63-2510A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 015 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 391–392.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams at (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist State Tax Commission/Product Tax 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7855 Fax: (208) 334-7844

35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES DOCKET NO. 35-0110-1802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3039, 63-2516, 63-2563, and 63-2502, Idaho Code

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 003 and 018, and they are being adopted as originally proposed. The complete text of the proposed rules were published June 6, 2018, Idaho Administrative Bulletin, Vol. 18-6, pages 117–119.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams, (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist State Tax Commission/Product Tax 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7855 Fax: (208) 334-7844

35.01.14 – PREPAID WIRELESS E911 FEE ADMINISTRATIVE RULES

DOCKET NO. 35-0114-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 003 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 393-394.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Leah.Parsons@tax.idaho.gov

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES **DOCKET NO. 35-0201-1801**

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 310 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 451-454.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

Cynthia Adrian, Income Tax Policy Specialist State Tax Commission 800 Park Blvd. Plaza IV P.O. Box 36 Boise, ID 83722-0410 Phone: (208) 334-7670

Fax: (208) 334-7844

Cynthia.Adrian@tax.idaho.gov

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION

47.01.02 – RULES AND MINIMUM STANDARDS GOVERNING EXTENDED EMPLOYMENT SERVICES DOCKET NO. 47-0102-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-2211 and 33-2303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

The proposed amendments make technical corrections, add defined terms, and update the referral and eligibility requirements for the Extended Employment Services Program. Added definitions include but are not limited to: Extended Employment Services Customer Rights and Responsibilities, Enclave Group Community-Based Non-Integrated Support Employment, Fee, Individual Community Supported Employment, Provider Agreement, and Work Services. Amended definitions include: CARF and Individual Program Plan. Updates and clarification is made to the application process, evaluation of the eligibility requirements, process for payment services and submission of individual program plans, and record retention requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 543-551.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208) 332-1582 or **tracie.bent@osbe.idaho.gov**.

Dated this 30th day of November, 2018.

Tracie Bent Chief Planning and Policy Officer Office of the State Board of Education 650 W. State Street P.O. Box 83720 Boise, Idaho 83720-0037 Phone: (208) 332-1582

Phone: (208) 332-1582 Fax: (208) 334-2632

IDAPA 55 - DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03 – RULES OF CAREER TECHNICAL SCHOOLS DOCKET NO. 55-0103-1801

NOTICE OF RULEMAKING – VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-2205, 33-2211 and 33-1002G.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The proposed amendments would move career technical school funding from a model based on student average daily attendance and support units to one based on the number of students enrolled in a capstone course during the previous academic year and the number of students completing a technical skills assessment for the program in which the student was enrolled. The proposed rule is being vacated due to comments received during the public comment period that indicated more work needed to be done to better inform individuals in the field that could be impacted by the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Tracie Bent at (208) 332-1582, or tracie.bent@osbe.idaho.gov.

Dated this 30th day of November, 2018.

Tracie Bent Chief Planning and Policy Officer State Board of Education 650 W. State Street P.O. Box 83720 Boise, ID 83720-0037 Phone: (208) 332-1582

Phone: (208) 332-158. Fax: (208) 334-2632

IN COMPLIANCE WITH SECTION 67-5221, IDAHO CODE, THIS RULEMAKING IS BEING VACATED.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

CURLEW VALLEY SUBBASIN ASSESSMENT AND TOTAL MAXIMUM DAILY LOAD (TMDL): 2018 (HUC 16020309)

DOCKET NO. 58-0000-1901 NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2018.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Curlew Valley Subbasin Assessment and TMDL: 2018. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Curlew Valley Subbasin Assessment and TMDL: 2018 (Hydrologic Unit Code 16020309) establishes four (4) total suspended solids, four (4) total phosphorus, four (4) total nitrogen, and three (3) E. coli TMDLs on a water quality impaired stream reach (assessment units). DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.idaho.gov/media/60182247/curlew-valley-sba-tmdl.pdf or by contacting Graham Freeman, TMDL Program Coordinator, at (208) 373-0461 or graham.freeman@deq.idaho.gov

Dated this 2nd day of January, 2019.

Paula J. Wilson Hearing Coordinator Department of Environmental Quality 1410 N. Hilton Street Boise, Idaho 83706-1255 Phone: (208) 373-0418 Fax: (208) 373-0481

paula.wilson@deq.idaho.gov

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.02 – RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS

DOCKET NO. 61-0102-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective on May 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-850(1)(a)(ii), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Section 19-850(1)(a)(ii), Idaho Code, requires the PDC to promulgate rules related to uniform data reporting requirements and model forms for the annual reports submitted pursuant to Section 19-864, Idaho Code, which shall include, but not be limited to, caseload, workload and expenditures. This rule will be negotiated to fulfill that mandate. The purpose is to support the PDC's mission to improve indigent defense delivery services in Idaho to ensure constitutional representation of Idaho's indigent defendants.

Changes made to the proposed rule reflect concerns defending attorneys raised during the public comment period about submitting information to the PDC that might violate attorney-client confidentiality. The PDC recognizes the importance of this privileged information and agrees it should be protected, as reflected in the changes in Sections 001.02, 021.03, and 021.04. Additional changes include a specific reference to Mandatory Continuing Legal Education in section 021.02 and the addition in Section 024 of an example of a justifiable reason for not tracking data.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 469-474.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There should be no direct impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathleen Elliott at (208) 332-1735.

Dated this 30th day of November, 2018.

Kathleen J. Elliott, Executive Director State Public Defense Commission 816 W. Bannock Street, Suite 201 Boise, Idaho 83702 Phone: (208) 332-1735

Fax: (208) 364-6147

DOCKET NO. 61-0102-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is *italicized* indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 469 through 474.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

001. TITLE AND SCOPE.

[Subsection 001.02]

O2. Scope. These rules contain the provisions of uniform data collection of Idaho's defending attorneys and establish the procedures by which defending attorneys shall report data to the PDC. *Data collected by the PDC shall be detailed enough to provide information about Idaho's public defense system, however, shall be redacted in such a manner so as to protect attorney-client confidentiality.*

(BREAK IN CONTINUITY OF SECTIONS)

021. REPORTING REQUIREMENTS.Information to be included in the Annual Report. (

[Subsection 021.02 through 021.04]

- **02. Continuing Legal Education Information**. Each Annual Report shall contain each defending attorney's *Mandatory* Continuing Legal Education *(MCLE)* hours as reported to the Idaho State Bar (ISB) for the previous fiscal year. The Annual Report shall be accompanied by one MCLE report from the ISB for each defending attorney. If the reporting period began during the previous fiscal year, an MCLE report for the entirety of the previous fiscal year must be sent. An attorney may have to request this information from the ISB.
- **03.** Expenditure Information. Being mindful of attorney-client confidentiality, each Annual Report shall contain expenditures related to indigent defense services. The reports shall not contain expenditure information related to specific cases. Expenditures related to indigent defense services include, but are not limited to:

a.	Investigations;	()
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STATE PUBLIC DEFENSE COMMISSION Uniform Data Reporting Requirements		Docket No. 61-0102-1801 Adoption of Pending Rule	
	b.	Expert witnesses;	()
	c.	Interpreters;	()
	d.	Mental and physical health examinations;	()
	e.	Medical records;	()
	f.	Polygraph examinations;	()
	g.	Exhibits for trial demonstrations;	()
	h.	Scientific tests;	()
	i.	Extraordinary travel expenses;	()
	<i>j</i> .	Transcripts;	()
	<i>k</i> .	Discovery costs; and	()
	I.	Costs related to compliance with this rule.	()
Subs	DC shall le so far a	RTING CYCLE. conduct the reporting cycle in accordance with Section 19-864, I s it does not conflict with Idaho Code: 222.04 has been deleted]	()
[Secti	on 023 i	through Subsection 023.05 have been renamed and tags	updated.]
023. The Ar		RTING PROCEDURE. ort shall be completed and submitted according to these rules.	()
request	01. ted docum	Forms . A Reporter shall file the appropriate fiscal year form supplents, both of which shall have original or digital signatures.	
facsim	02. ile.	Method of Delivery. The Annual Report shall be submitted to	the PDC via mail, email, or
[Subs	ection 0	23.03, text deleted]	
Report	03. to ensure	Review . A Reporter may review the Annual Report with PDC staff it meets the PDC's criteria.	prior to submitting the Annual
conside	ered not	Incomplete Annual Report . Incomplete Annual Reports will be a vide a reasonable explanation as to why the Annual Report is incomposubmitted to the satisfaction of the Commission, which could prote the Defense Grant Funds.	olete. Incomplete reports will be
	05.	Due Date . The Annual Report shall be delivered to the PDC on or b	efore November 1 of each year.

[Section 024 header]

024. EXPLANATION OF DATA NOT TRACKED.

Any data which should be included in the Annual Report but was not tracked during the fiscal year must be reported to the PDC along with an explanation addressing why the data was not tracked. If the PDC determines a failure to track data is justifiable (i.e. non-willful), the disbursement of the county's Indigent Defense Grant Funds will not necessarily be prohibited. Examples of a justifiable reason include, but are not limited to, the data would violate attorney-client confidentiality, or the data is/was too cumbersome to track. A satisfactory explanation must be provided to support the inability to track such data.

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.03 – RULES GOVERNING CONTRACTS AND CORE REQUIREMENTS FOR CONTRACTS BETWEEN COUNTIES AND PRIVATE ATTORNEYS FOR THE PROVISION OF INDIGENT DEFENSE SERVICES

DOCKET NO. 61-0103-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective May 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-850(1)(a)(iii), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Section 19-850(1)(a)(iii), Idaho Code, requires the PDC to promulgate rules related to model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services which shall include, but not be limited to, compliance with indigent defense standards. This rule will be negotiated to fulfill that mandate. The purpose is to support the PDC's mission to improve indigent defense delivery services in Idaho to ensure constitutional representation of Idaho's indigent defendants.

Changes made to the proposed rule reflect comments made during the public comment period. Stakeholders felt that many of the requirements for the contracts should not be enforced by the contracting authority, but by the PDC. Changes were made to address those concerns by striking Paragraphs 020.09.c., 020.09.d., 020.09.e., and 020.09.f., and by striking Subsections 022.01 through 022.05. Section 20 was changed to state that contracts should be in writing and that some contract terms will be discretionary rather than mandatory to allow counties to negotiate contracts with their contractors. Finally, at the request of stakeholders, Subsection 022.07, renumbered to Subsection 022.02, now describes that materials will only be provided to counties if requested.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-9, pages 475-479.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rule will not have any direct impact on the general fund, however, there is the possibility of a future indirect impact as follows: changes to county contracts as a result of this rulemaking may require additional monies in order to comply. Due to the PDC's duty to distribute funding to assist the counties with compliance, the PDC may seek additional appropriations to cover these increases.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathleen Elliott at (208) 332-1735.

Dated this 30th day of November, 2018.

Kathleen J. Elliott, Executive Director State Public Defense Commission 816 W. Bannock Street, Suite 201 Boise, Idaho 83702 Phone: (208) 332-1735

Fax: (208) 364-6147

DOCKET NO. 61-0103-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is *italicized* indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 475 through 479.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

[Section of the content of the conte	on 020 l	heading and Paragraph 020.01.a.]	
entitled under S	ntracting to be resection 19	TERMS. Authority elects to provide for the representation of indigent persons and other individuals we presented by an attorney at public expense by contracting with a defending attorney, as pro-859(4), Idaho Code, each contract between the parties shall be in writing and include Subsections 0.4. Each contract should also include Subsections 0.5 through 10.	ovided
	01.	Underlying Bases. The contract shall include a term explaining:	()
service	a. s; and	The Contracting Authority's statutorily mandated responsibility to provide public de	fender
shall:	09.	Experience Requirements. Each Defending Attorney providing services pursuant to the co	ontract
[Paraz	graph 0	20.09.b. (changed); Paragraphs 020.09.c. through f. have been deleted]	
Court.	b.	Satisfy the minimum requirements for practicing law in Idaho as determined by the Idaho Su	preme
	10.	Performance Requirements. The contract shall require the contractor to do the following: (()
[Paraz	graphs (020.10.a. through 020.10.c.]	
	a.	Make reasonable efforts to provide the services and comply with the requirements of the Com	tract;
under t	b. he contrac	Utilize adequate support staff to render the necessary competent assistance of counsel rect;	quired

STATE PUBLIC DEFENSE COMMISSION Contracts for the Provision of Indigent Defense Services

Docket No. 61-0103-1801 Adoption of Pending Rule

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c. Contact all clients within a specified amount of time from notification of case assignment. The amount of time should take into account the requirements of providing constitutional representation and the ability of the contractor to meet such requirement considering factors like travel time and the ability to engage in such communication; and

021. ESTABLISHMENT AND MAINTENANCE OF RECORDS.

[Subsection 021.02 and 021.03]

- **02.** Costs of Subcontract and Personal Service Contract Records. *The* contract shall require the Contractor to maintain records which sufficiently and properly reflect all direct and indirect costs of any subcontracts or personal service contracts.
- **03. Duration of Record Keeping**. *The* contract shall require the Contractor to maintain records for a specified period of time after termination of the contract, unless permission to destroy records before that time period is granted by the Contracting Authority.

[Section 022 in its entirety]

022. REPORTS AND INSPECTIONS.

Each contract shall require the Contractor to submit to the Contracting Authority the following:

- **01. Written Notification**. Immediate written notification in the case that a complaint is lodged with the Idaho State Bar, which has resulted in reprimand, suspension, or disbarment of the Indigent Defense Provider, or any attorney who is a member of the Indigent Defense Provider.
 - **Materials**. *If requested, m*aterials necessary to verify compliance with all terms of the contract.

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.04 – RULES GOVERNING PROCEDURES AND FORMS FOR THE APPLICATION AND DISBURSEMENT OF INDIGENT DEFENSE GRANTS

DOCKET NO. 61-0104-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-850(1)(a)(iv), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule.

The PDC has been directed to disburse indigent defense grants to the counties who are in need of funds to comply with indigent defense standards or otherwise to improve their delivery of indigent defense. The state has already appropriated funds to the PDC and if unused, will revert to the general fund. This rule establishes the original procedures and forms for the application and disbursement of indigent defense grants.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, Vol. 18-10, pages 572 through 577.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The funds for the indigent defense grants have been appropriated by the State legislature.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathleen Elliott at (208) 332-1735.

Dated this 30th day of November, 2018.

Kathleen J. Elliott, Executive Director State Public Defense Commission 816 W. Bannock Street, Suite 201 Boise, Idaho 83702

Phone: (208) 332-1735 Fax: (208) 364-6147

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO'S INDIGENT DEFENSE DELIVERY SYSTEMS – RULE DEFINITIONS

DOCKET NO. 61-0108-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective May 1, 2019, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-850(1)(a)(vii)(3), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule will amend standards for defending attorneys and provide a workload standard to ensure that defending attorneys are handling an appropriate workload. The standard will, in part, be based upon data collected in Idaho during a workload study in 2017. This amendment will ensure that representation of Idaho's indigent defendants meets constitutional scrutiny.

Three changes were made to the proposed rule itself. The date of the document incorporated by reference in Subsection 004.02 was changed to reflect the date the PDC finalized the document at their regularly scheduled meeting on November 14, 2018. In Section 010 the definition of "Contractor" was inserted as Subsection 010.12, and the subsequent definitions in Section 010 were renumbered accordingly. The phrase "if compliance can be achieved with county monies" was deleted from the definition of "Indigent Defense Grant" in renumbered Subsection 010.27 to correct a typographic error and clarify the uses of Indigent Defense Grant funds.

Other changes to the proposed rule are within the document incorporated by reference, Standards for Defending Attorneys, edition 2018, dated 11/14/18. In section III, subsection B was revised to outline a caseload standard if the Idaho numerical caseload set forth in subsection C sunsets with no replacement. In section III, subsection C was edited to state the annual numerical maximum caseload for specific case types and sets a sunset date. These changes were made based upon comments of defending attorneys regarding the numerical caseload standard. Subsection C also reflects the fiscal responsibility of the State in supporting the numerical caseload standard and outlines the process for defending attorneys to document justifiable deviations from the numerical standard. In section III, subsections D, E and F were inserted to explain the method to calculate caseload for defending attorneys carrying multiple case types, to establish parameters to adjust caseloads for cases not of average complexity, and describing the need to balance caseload throughout the year. The subsequent subsections in section III were renumbered to reflect the additions.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, Vol. 18-09, pages 480 through 486.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no direct impact to the state general fund as funds are already appropriated to support standards promulgated by the PDC, however, there is the possibility of a future indirect impact as follows: a workload standard may require counties to expend additional monies in order to comply (i.e. hire additional attorneys for indigent defense). Due to the PDC's duty to distribute funding to assist the counties to comply with standards it has created, the PDC will seek additional appropriations to cover those increases. Currently, the PDC is appropriated approximately \$4.5 million. The PDC will seek a total of approximately \$10 million to support compliance.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathleen Elliott at (208) 332-1735.

Dated this 30th day of November, 2018.

Kathleen J. Elliott, Executive Director State Public Defense Commission 816 W. Bannock Street, Suite 201 Boise, Idaho 83702

Phone: (208) 332-1735 Fax: (208) 364-6147

DOCKET NO. 61-0108-1801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the proposed rule. Italicized red text that is <u>double underscored</u> indicates amendments to the proposed text in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 18-9, September 5, 2018, pages 480 through 486.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2019 Idaho State Legislature.

Only those sections or subsections that have changed from the original proposed text are printed in this Bulletin following this notice.

[Chapter Name Revision (Plural to Singular) in Chapter Title and Subsection 001.01]

IDAPA 61 TITLE 01 CHAPTER 08

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO'S INDIGENT DEFENSE DELIVERY SYSTEMS – RULE DEFINITIONS

001. TITLE AND SCOPE.

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules:

(5-1-18)

[Subsection 004.02]

O2. Standards for Defending Attorneys. "Standards for Defending Attorneys, edition 20178," revised as of November 2714, 20178, is herein incorporated by reference and is available from the PDC's office and on the PDC website: https://pdc.idaho.gov/rules.

(BREAK IN CONTINUITY OF SECTIONS)

010. **DEFINITIONS.**

For the purposes of the Indigent Defense Delivery System chapters of rules, the following definitions apply: (5-1-18)

[Subsections 010.12 through 010.43]

- <u>12.</u> <u>Contractor.</u> A defending attorney, law firm or office of public defender that enters into a contract with a Contracting Authority for the provision of representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense.
- 143. Corrective Action Plan. A plan developed by a county or defending attorney with the assistance of PDC staff that addresses any reported violation of established standards and how those violations will be corrected.

 (5-1-18)
- 124. **Defending Attorney**. Defined in Section 19-851, Idaho Code, as any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense in state courts.

 (5-1-18)
- 135. **Deficiency**. The violation of an established standard for which the timeline for compliance has passed pursuant to Section 19-862A(9), Idaho Code. (5-1-18)
- 146. Eligible Applicant Indigent Defense Grant. To be considered for an award of an IDG, an applicant must meet the requirements of IDAPA 61.01.04, Section 024, "Award Eligibility Requirements." (5-1-18)
- Code. Established Standards. Rules promulgated by the PDC pursuant to Section 19-850(1)(a), Idaho (5-1-18)
- 168. Finding of Compliance with Recommendation. A finding of compliance with recommendation refers to a condition whereby a county or defending attorney may be in compliance with Indigent Defense Standards; however, the provision of indigent defense services could be improved to ensure constitutionally-sound representation or achieve compliance with indigent defense standards yet to be promulgated. This finding is not a PDC determination of deficiency or non-compliance. The PDC does not have the authority to enforce compliance with a recommendation.

 (5-1-18)
- 179. Finding of Non-Compliance. A finding of non-compliance refers to an instance where a county or defending attorney is not in compliance with applicable Indigent Defense Standards and may be related to a

deficiency in the provision of indigent defense services. This finding is not necessarily a PDC determination of a deficiency and still requires a finding of material and willful non-compliance before the take-over provisions of Section 19-862A, Idaho Code, are invoked.

(5-1-18)

- **4820. Fiscal Year**. As referred to in this chapter, fiscal year refers to a county fiscal year beginning on October 1 and ending on September 30 of the following calendar year. (5-1-18)
- **1921. Formal Status Meeting.** A meeting between PDC staff and a county or defending attorney conducted in accordance with IDAPA 61.01.06, section 023.02. (5-1-18)
- **202. Indigent Defense Budget.** The funds appropriated each fiscal year by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code, that includes the expenses of investigation, other preparation and trial, but does not include amounts received from the Capital Crimes Defense Fund or the Public Defense Commission. The appropriated funds shall not be less than a county's local share for that fiscal year. (5-1-18)
- **243. Indigent Defense Contract.** A written contract between the board of county commissioners and a defending attorney or existing office of public defender that provides representation of indigent persons and other individuals who are entitled to be represented by an attorney at *county public* expense. Such contracts shall not include a pricing structure that charges or pays a single fixed fee for the services and expenses of the attorney.

 $\frac{(5-1-18)}{(}$

- **224. Indigent Defense Delivery System**. The system created by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code. The system includes the county, indigent defense provider, defending attorneys, and any other county staff necessary for the administration of indigent defense services. (5-1-18)
- **235. Indigent Defense Expenditures.** Any monies expended for indigent defense services within a county that do not include amounts received from the public defense commission or amounts expended for capital cases by those counties participating in the capital crimes defense program in excess of premiums and deductibles required by guidelines approved by the Idaho capital crimes defense fund board of directors. (5-1-18)
- **257. Indigent Defense Grant Application**. An application created by the PDC each year requesting information related to the provision of indigent defense services in an Applicant's county. This application will be updated each year and be provided by February 28, initiating the grant cycle. Counties are required to use this application when requesting an IDG award. (5-1-18)
- 268. Indigent Defense Provider. Any agency, entity, organization or person selected by a board of county commissioners in accordance with Section 19-859, Idaho Code, or designee of the commission if the commission's actions to remedy specific deficiencies pursuant to Section 19-862A(11)(b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. (5-1-18)
- **279. Indigent Defense Services.** County services provided to indigent persons and other individuals who are entitled to be represented by an attorney at public expense pursuant to Section 19-859, Idaho Code. (5-1-18)
- **2830. Indigent Defense Stakeholders ("Stakeholders").** A person, agency, entity or other organization with an interest or concern in the delivery of indigent defense in Idaho. (5-1-18)
- **2931. Indigent Defense Standard.** Defined in Section 19-851, Idaho Code, as any rule promulgated by the commission pursuant to Section 19-850(1)(a), Idaho Code. (5-1-18)
 - 302. Joint Incentive Indigent Defense Grant. Pursuant to Section 19-862A, Idaho Code, a sum of

STATE PUBLIC DEFENSE COMMISSION Idaho's Indigent Defense Delivery Systems – Rule Definitions

Docket No. 61-0108-1801 Adoption of Pending Rule

money awarded by the PDC to counties who join together to establish and maintain a joint office of public defender pursuant to Section 19-859(2), Idaho Code. (5-1-18)

- 343. Local Share. Defined in Section 19-851, Idaho Code, as the benchmark figure calculated by the commission to determine the minimum amount of funding that shall be maintained by a county and to determine the award amount of state indigent defense grants for which a county may be eligible pursuant to Section 19-862A, Idaho Code. For any given county fiscal year, a county's local share shall be the median of the annual amount in county funds expended by that county for indigent defense during each of the first three (3) of the preceding five (5) county fiscal years, as certified by the county clerk.
- **324. Oversight Review**. An annual or periodic review of a county or defending attorney, completed by PDC staff, that considers whether indigent defense standards are being met and if deficiencies are being identified and cured in a timely fashion. (5-1-18)
- **335. Public Defense Roster.** A roster of completient defending attorneys who may be appointed to represent indigent defendants or other persons entitled to be represented by an attorney at public expense. The roster may also include non-attorney staff under the regular employ or supervision of a defending attorney. (5 1 18)()
- **36.** Reporter. An Indigent Defense Provider or defending attorney who submits an Annual Report as required by Section 19-864, Idaho Code, and IDAPA 61.01.02.
- **347. Scholarship.** Any amount of training funds granted by the PDC to be used toward the costs of attending a training program. (5-1-18)
 - **358. Staff.** Any individual employed by the PDC. (5-1-18)
- **369. Submission Date.** The date upon which one mails or digitally submits a document, form or application to the PDC. (5-1-18)
- **3840. Training Funds.** An amount designated in the annual budget of the PDC designated for the benefit of defending attorneys and those under their employ or supervision. These funds are dedicated to provide training and education for persons servicing indigent clients as designated by law, statute, court rule, or appointment. (5-1-18)
- **3741. Training Program**. Any program, class, conference, seminar, or educational opportunity whose purpose includes the training of persons servicing indigent clients as designated by law, statute, court rule, or appointment. (5-1-18)
- 3942. Vertical Representation. Continuous representation by the same attorney from assignment through completion of the case. Assignment shall occur immediately following an initial appearance to ensure that the constitutionally required level of advocacy necessary to mount a meaningful defense commences as soon as possible.

 (5-1-18)
- **403. Workload.** The term workload recognizes that a caseload generally consists of a mix of case types that each require differing amounts of time and resources. (5-1-18)

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

THERE ARE NO PROPOSED RULES PUBLISHED IN THE JANUARY 2, 2019, IDAHO ADMINISTRATIVE BULLETIN, VOL. 19-1.

Please refer to the Idaho Administrative Bulletin, **January 2, 2019**, **Volume 19-1**, for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration, P.O. Box 83720, Boise, ID 83720-0306 Phone: 208-332-1820; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

Office of the Administrative Rules Coordinator Idaho Department of Administration

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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